

PREAMBLE

WE, THE PEOPLE OF THE COUNTY OF HAWAII,
in the State of Hawaii
with due respect for and in support of
the laws of the land, do adopt this
CHARTER OF THE COUNTY OF HAWAII
STATE OF HAWAII

ARTICLE I

INCORPORATION AND GEOGRAPHICAL LIMITS

Section 1-1. Incorporation. The people of the county of Hawaii shall be and continue as a body politic and corporate by the name of "County of Hawaii," hereinafter in this charter called "county." By that name it shall have perpetual succession.

Section 1-2. Geographical Limits. The island of Hawaii and all other islands within the shores thereof and the waters adjacent thereto shall be the county of Hawaii.

ARTICLE II

POWERS OF THE COUNTY

Section 2-1. Powers of the County. The county shall have all powers possible under the constitution and laws of the State of Hawaii, including all powers now or hereafter given by such constitution or laws, and all other powers not prohibited by such constitution or by this charter. The county shall have such powers as fully and completely as though specifically enumerated in this charter, and no enumeration of powers in this charter shall be deemed exclusive or restrictive.

Section 2-2. Exercise of Powers. All powers of the county shall be carried into execution as provided by this charter or, if the charter makes no provision, by ordinance or resolution of the county council.

ARTICLE III

LEGISLATIVE BRANCH

COUNTY COUNCIL

Section 3-1. Powers and Functions. The legislative powers of the county shall be vested in the county council. Its primary function shall be legislation and public policy formulation, as distinct and separate from the executive administration of county government.

Section 3-2. Composition and Terms. There shall be a county council composed of nine members. One member shall be elected from each of nine districts. The terms of the council members shall be two years and shall begin at twelve o'clock meridian on the first Monday of December after their election. The terms of the council members shall not exceed four consecutive two year terms. Candidates shall be elected in accordance with the election laws of the state, insofar as applicable. (Amended Gen. Elec. 1996 and 2000 Charter Amend. 1)

Section 3-3. Qualifications. A person must be a citizen of the United States of America and have been a duly qualified elector of the county for at least one year immediately preceding election or appointment to the county council. A person must also have been a resident and registered voter of the district from which the person is to be elected or appointed for at least ninety (90) days immediately preceding the primary election or the appointment. (Amended Gen. Elec. 1980 and 1990)

Section 3-4. Vacancy in Office. When any vacancy occurs in the county council, the remaining members of the council shall appoint as a successor a

person with the requisite qualifications to fill the vacancy. Within thirty days after the occurrence of any vacancy, the council chairperson shall notify all remaining members of the council by registered mail that on a specified regular meeting date, formal action shall be taken to fill the vacancy. Should the council fail to fill any vacancy within sixty days after its occurrence, the chairperson of the council shall appoint a successor to fill the vacancy for the unexpired term. The person appointed shall serve until a successor is duly elected and seated. (Amended Gen. Elec. 1990 and 2000 Charter Amend. 1. Ed. Note: This section was originally section 3-5 in 1969. The original section 3-4, entitled, "Compensation, Salary Commission," was moved to Article XIII and designated section 13-28 pursuant to Ord. 56 which was approved by the voters at the 1974 Gen. Elec.)

Section 3-5. Removal of Councilmembers. Any councilmember may be removed by impeachment or recall proceedings as provided by this charter. (Originally section 3-6, renumbered Gen. Elec. 1974 and amended Gen. Elec. 1980)

Section 3-6. Organization of the Council; Officers; Employees.

(a) The council shall elect from among its members a chairperson and a vice chairperson, each of whom shall serve at its pleasure. Until such time as the chairperson and presiding officer shall be elected, the mayor shall preside at such meeting, provided that the mayor shall not have a vote. The chairperson shall preside at council meetings. If at any meeting the chairperson is not present or unable to act, the vice chairperson shall then preside. In the absence of the chairperson and vice chairperson, the council shall elect from among its members a temporary presiding officer.

(b) The council shall appoint the county clerk which position shall be exempt from civil service laws and classifications. The county clerk shall:

- (1) Be the clerk of the council.
- (2) Be custodian of the county seal.
- (3) Conduct all elections held within the county.
- (4) Appoint the deputy county clerk and the legislative auditor, with the approval of the council, and such positions shall be exempt from civil service laws and classifications.
- (5) Perform such other functions as the council may prescribe.
- (6) Appoint necessary staff for which appropriations have been made by the council, subject to civil service laws and classifications, and exercise the same power with respect to the personnel of the clerk's office as the department heads in the executive branch.

(Amended and renumbered by Ord. 59, approved Gen. Elec. 1974, further amended Gen. Elec. 1990)

Section 3-7. Meetings; Rules and Journal; Voting and Quorum. The county council shall meet regularly at least twice in every month at such times and places as shall be established by the rule of the council, and meet at least quarterly in the judicial district of North Kona or South Kona. The council shall determine its rules and order of business and shall provide for keeping a journal of its proceedings, which shall be a public record, in which the ayes and noes shall be entered as required by this charter or at any other time upon the demand of any member. The affirmative vote of a majority of the entire membership shall be necessary for council action. A majority of the entire membership of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members. Whenever the term "entire membership" appears in this charter pertaining to council voting, it means the entire membership of nine members, even if there are vacancies. (Amended and renumbered Gen.

Elec. 1980, further amended Gen. Elec. 1990 and by 2000 Charter Amend. 13, which requires West Hawaii meetings and which took effect on January 1, 2001.)

Section 3-8. Actions of the Council. Every legislative act of the council shall be by ordinance. Non-legislative acts of the council may be by resolution and, except as otherwise provided by law, no resolution shall have the force and effect of law. Every ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause of every ordinance shall be "BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII" and the enacting clause of every resolution shall be "BE IT RESOLVED BY THE COUNCIL OF THE COUNTY OF HAWAII." (Renumbered Gen. Elec. 1990)

Section 3-9. Resolutions. Reading of resolutions may be by title only. A full reading may be required by a one-third vote of the entire membership. (Renumbered Gen. Elec. 1990)

Section 3-10. Ordinances.

(a) Ordinances shall be initiated as bills which shall be passed only after two readings on separate days. Reading of bills may be by title only. Full readings and public hearings may be required by a one-third vote of the entire membership.

(b) Every ordinance of the council shall embrace but one subject, which subject shall be expressed in its title. If an ordinance embraces a subject not expressed in its title, only that subject shall be void.

(c) Bills embracing: (1) the fixing of special assessments for the cost of improvements; (2) the appropriation of public funds or authorization of the issuance of general obligation bonds or (3) the imposition of a duty or penalty on any person, shall pass first reading by a vote taken by ayes and noes, and digests of such bill shall be advertised once in at least two daily newspapers of general circulation in the county, with ayes and noes, at least three days before final reading by the council. Not less than three copies of such bills shall be filed for use and examination by the public in the office of the county clerk at least three days prior to the final reading thereof.

(d) A bill shall not be amended to change its original purpose. An amended bill shall, upon a one-third vote of the entire membership, be laid over for at least one week before final reading.

(e) A motion to reconsider made at the time any bill fails to pass final reading shall not be voted upon until after twenty-four hours.

(f) Ordinances shall become effective upon approval by the mayor or at such later date as may be specified therein.

(g) A bill may incorporate therein any standard technical code or portions thereof by reference. The code, or portions, need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the county clerk, and notice of the availability of said copies shall be published by the clerk.

(h) After enactment, ordinances shall be published once in at least two daily newspapers of general circulation the county. Such publication shall be by title only and shall specify the ayes and noes. (Subsection (c) amended, and entire section renumbered Gen. Elec. 1990)

Section 3-11. Emergency Ordinances. The county council may adopt emergency ordinances to meet public emergencies affecting life, health or property. Such ordinances may not be used to levy taxes, authorize the borrowing of money or to grant, renew or extend franchises. Emergency appropriations may be made pursuant to Section 10-8.

Emergency ordinances shall be plainly designated as such and shall contain a declaration describing the emergency in clear and specific terms.

Any emergency ordinance may be considered and adopted after one reading, with or without amendment, or be rejected at the meeting at which the same is introduced. The affirmative vote of all council members present or by two-thirds of the entire membership shall be necessary for adoption of such ordinances. Emergency ordinances shall be published in the same manner prescribed for other adopted ordinances and shall become effective upon approval by the mayor or at such later time, preceding automatic repeal, as the same may specify.

Amendments to any emergency ordinance shall be adopted in the same manner prescribed for adoption of emergency ordinances.

Every emergency ordinance, including any amendments made after adoption, shall automatically stand repealed as of the sixty-first day following the date of adoption of the original ordinance. (Renumbered Gen. Elec. 1990)

Section 3-12. Submission of Bills to the Mayor. Every bill adopted by the council shall be duly authenticated by the clerk and the presiding officers and thereupon presented to the mayor for approval. Such bill shall become effective as an ordinance upon its approval or such later date as specified therein. If the mayor disapproves a bill, the mayor shall return the bill together with any objections in writing to the clerk within ten days (excluding Saturdays, Sundays, and legal holidays) after receipt. If the mayor does not act within such ten-day period, the bill shall become effective as an ordinance as if the mayor had approved it. The objections of the mayor shall be entered in the journal of the council and the council may, after five and within thirty days after the bill has been so returned, reconsider the vote upon the bill. If the bill, upon such reconsideration, is again passed by the affirmative vote of two-thirds of the entire membership the presiding officer shall verify that fact on the face of the bill and such bill shall become effective as an ordinance with like effect as if approved by the mayor. A bill failing to pass upon such reconsideration shall be deemed lost.

If any appropriation bill is presented to the mayor, the mayor may veto any item or portion thereof by striking out or reducing the same. The mayor shall append any objections and the reasons therefor to the bill at the time of signing, and the item or portion thereof so vetoed shall not take effect unless the council shall reconsider the vote on the bill and, upon such reconsideration, the bill is again passed by the affirmative vote of two-thirds of the entire membership. (Renumbered Gen. Elec. 1990)

Section 3-13. Adoption of Pay Plan. All persons employed by the county or any of its boards or commissions, whether as officers or otherwise, except those whose pay is otherwise provided for shall be paid in accordance with a pay plan enacted by ordinance. The pay plan for persons holding positions in the position-classification plan shall be in accordance with section 7-1.5 of this charter. Interim amendments to the ordinance establishing the pay plan for the county may be by resolution of the council provided a revised salary ordinance is enacted at least once annually. (Renumbered Gen. Elec. 1990)

Section 3-14. County Code. There shall be a county code containing all county ordinances, as may be amended from time to time, and copies thereof shall be available for inspection at the office of the county clerk. (Renumbered Gen. Elec. 1990)

Section 3-15. General Plan. The county council shall adopt by ordinance a general plan which shall set forth the council's policy for long-range comprehensive physical development of the county. It shall contain a statement of development objectives, standards and principles with respect to the most desirable use of land within the county for residential,

recreational, agricultural, commercial, industrial and other purposes which shall be consistent with proper conservation of natural resources and the preservation of our natural beauty and historical sites; the most desirable density of population in the several parts of the county; a system of principal thoroughfares, highways, streets, public access to the shorelines, and other open spaces; the general locations, relocations and improvement of public buildings, the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, sewers, light, power, transit, and other purposes; the extent and location of public housing projects; adequate drainage facilities and control; air pollution; and such other matter as may, in the council's judgment, be beneficial to the social, economic, and governmental conditions and trends and shall be designed to assure the coordinated development of the county and to promote the general welfare and prosperity of its people.

(a) The council shall enact zoning, subdivision, and such other ordinances which shall contain the necessary provisions to carry out the purpose of the general plan.

(b) No public improvement or project, or subdivision or zoning ordinance, shall be initiated or adopted unless the same conforms to and implements the general plan.

(c) Amendments to the general plan may be initiated by the council or the planning director. (Renumbered Gen. Elec. 1990)

Section 3-16. Mandatory Program Review. At least once every four years, the council shall critically review every program supported wholly or partially by county funds, and unless the council shall favorably authorize its continuation at current or modified levels, the program shall be terminated. The council shall adopt procedures and details to implement this section. (Added as section 3-17 Gen. Elec. 1980, renumbered Gen. Elec. 1990)

Section 3-17. County Reapportionment Commission.

(a) There shall be a county reapportionment commission which shall establish the boundaries of the council districts.

(b) The initial reapportionment commission shall consist of seven members, two of whom shall be residents of the combined judicial districts of North and South Hilo, one from the judicial district of Puna, one from the judicial district of Ka'u, one from the combined judicial districts of North and South Kona, one from the combined judicial districts of North and South Kohala, and one from the judicial district of Hamakua. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4.

(c) Each subsequent reapportionment commission shall consist of nine members. One member shall be a resident of each council district as established by the previous reapportionment commission. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4.

(d) The year 1991 and every tenth year thereafter shall be reapportionment years. The reapportionment commission shall be appointed and confirmed by March 1 of the reapportionment year, and shall file a reapportionment plan with the county clerk by December 31 of the reapportionment year. The reapportionment commission shall be dissolved after the filing of the reapportionment plan.

(e) The county clerk shall furnish all necessary technical and secretarial services for the reapportionment commission. The council shall appropriate necessary funds to enable the commission to carry out its duties.

(f) The reapportionment commission shall be guided by the following criteria in establishing the boundaries of the council districts:

- (1) No district shall be drawn to unduly favor or penalize a person or political faction;
- (2) Insofar as possible, districts should be contiguous and compact;
- (3) District lines shall, where possible, follow permanent and easily recognizable features;
- (4) Districts shall have approximately equal resident populations as required by applicable constitutional provisions.

(g) The district boundaries as established by the reapportionment commission shall be in effect at the first regularly scheduled council election following the filing of the plan and for any subsequent council election. The district boundaries in effect prior to the filing of the reapportionment plan shall remain in effect during the duration of the term of all councilmembers elected or appointed to represent such districts until the expiration of the full term of such councilmembers, including any election held to fill an unexpired term under section 3-4. (Added Gen. Elec. 1990)

ARTICLE IV EXECUTIVE BRANCH GENERAL PROVISIONS

Section 4-1. Executive Power. The executive power of the county shall be vested in and exercised by the executive branch, which shall be headed by the mayor, and administered by the managing director, except as otherwise provided by this charter. (Amended 2000 Charter Amend. 2)

Section 4-2. Organization. The activities under the direction and supervision of the mayor shall be distributed among such agencies established by this charter or as maybe established by ordinance of the county council. New functions may be assigned by the mayor to existing agencies.

Section 4-3. Appointment by Mayor. Each agency shall be administered by an officer appointed by the mayor, except as otherwise provided by this charter.

Section 4-4. Advisory Commissions. The mayor may appoint advisory commissions. Members of such advisory commissions shall serve for a period of time not to exceed, or exist beyond, the term of office of the mayor, except as otherwise provided by this charter. The members of advisory commissions shall not receive compensation; however their authorized expenses shall be paid from funds of the agency affected by the commission. Advisory commissions shall have no employees, but the mayor shall cause the employees of the agency concerned to furnish such services as may be needed by the commissions.

Section 4-5. Powers and Duties of Agency Heads. Subject to the provisions of this charter, the administrative heads of each agency or executive agency of the county shall have the power to:

(a) Appoint and remove a deputy or assistant and a private secretary and such positions shall be exempt from civil service laws and classifications. No such appointment shall be made unless the positions have been created and appropriations therefor have been made by the council.

(b) Appoint necessary staff for which appropriations have been made by the council.

(c) Take all personnel actions including the assignment or reassignment of duties to employees within the salary ordinance; provided, that if such assignment or reassignment of duties shall affect the compensation of the employees, written approval must first be obtained from the mayor and a report thereon must be submitted to the council within thirty days.

- (d) Supervise the performance of duties by all employees.
- (e) Except as otherwise provided by this charter and subject to the approval of the mayor, prescribe such rules as are necessary for the organization and internal administration of the agency.
- (f) Perform such duties as are prescribed by this charter and such other duties as may be assigned by the mayor and managing director. (Amended 2000 Charter Amend. 2)

**ARTICLE V
EXECUTIVE BRANCH
THE MAYOR AND STAFF AGENCIES**

**CHAPTER 1
MAYOR**

(Ed. note: Ballot Question 2, which was approved at the 2000 Gen. Elec., stated "Should the managing director be given additional responsibilities over all county departments and agencies, and be confirmed by the county council?" (underlining added) The full text of amendment prepared by the Charter Commission, contained the following Section 1, "Article V and Article VI, Hawaii County Charter, shall be reorganized by moving staff agencies (Article V, Chapter 2, Article V, Chapter 3, Article V, Chapter 4, and Article V, Chapter 5), and 'Miscellaneous,' Article V, Chapter 6, so that they are included under Article VI: 'The Managing Director and Agencies under the Managing Director.' All chapters shall be appropriately re-numbered." Section 1 made no mention of Article V, Chapter 5A, relating to the Data Systems Department, which was created in 1998 and was not part of the 1990 edition. It appears that the omission was not intentional and that the Commission and the voters intended that all county departments in Article V be moved to Article VI under the Managing Director. Therefore, the change is contained in this edition.)

Section 5-1.1. Election and Term of Office. The mayor shall be elected for a term of four years which term shall commence at twelve o'clock meridian on the first Monday of December following the election. (Stylistic change, 1990)

Section 5-1.2. Qualifications. Any citizen of the United States of America who has been a duly qualified elector of the county for at least one year immediately preceding the election as mayor shall be eligible for the office of mayor. The mayor may serve for more than two terms of office but shall not serve for more than two consecutive full terms of office. (Stylistic change, 1990)

Section 5-1.3. Powers, Duties and Functions. The mayor shall be the chief executive officer of the county vested with all the executive powers of the county, except as otherwise provided by this charter. The mayor shall have the power to:

- (a) Through the managing director supervise and coordinate all executive agencies of the county, except as otherwise provided by this charter.
- (b) Appoint necessary staff for which appropriations have been made by the council. All positions in the mayor's office shall be exempt from civil service laws and classifications.
- (c) Create positions, including position of deputy or assistant to each head of an agency where such position has not been created by this charter, for which appropriations have been made by the council and abolish positions with the consent of the council.

(d) Make transfers of positions between agencies or between subdivisions of agencies subject to applicable civil service regulations.

(e) Recommend to the council a pay plan for all officers and employees of the county or any of its boards and commissions, except those whose pay is otherwise provided for; provided that the salary of any officer or employee who is exempt from the civil service laws shall be subject to approval by the council and the mayor.

(f) Submit an operating budget, an operating program, a capital budget and a capital program annually to the council.

(g) Sign instruments requiring execution by the county, except as otherwise provided by this charter or by ordinance.

(h) Make periodic reports in addition to the annual report, informing the public as to county policies, programs and operations.

(i) Call special sessions of the council.

(j) Veto ordinances.

(k) Enforce the provisions of this charter, the ordinances of the county and all applicable laws, and exercise such other powers and perform such other duties as may be prescribed by this charter or by ordinance. (Ed. note: Pursuant to a change approved at the Gen. Elec. 1990, the previous section 5-1.3., entitled, "Compensation," was deleted and its provisions incorporated into Article XIII, Section 13-28. Subsequent sections in this chapter were renumbered. Remaining provisions were further amended 2000 Charter Amend. 2. The complete text of the amendment prepared by the 2000 Charter Commission contained an inadvertent omission of subsections (g)-(k). These subsections were retained in this edition.)

Section 5-1.4. Vacancy in Office. A vacancy in the office of mayor shall be filled by the managing director, or if the office of managing director is vacant, or during such periods as the managing director is unable to so act, by the finance director until a successor is duly elected and seated.

If the vacancy occurs after the filing deadline for the next regularly scheduled primary election, the managing director shall serve the entire unexpired term.

If the vacancy occurs before the filing deadline for the next regularly scheduled primary election in the middle of the mayoral term, the council shall, through its clerk, immediately issue an election proclamation, announcing that a successor will be elected as prescribed in section 13-27. The proclamation shall also announce the date for the close of filing of nomination papers for the office, which shall be ten days after the issuance of the election proclamation, or the filing deadline for the primary election, whichever comes later. The election shall be held in accordance with the election laws of the state insofar as otherwise applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at twelve o'clock meridian on the first Monday of December following the election. (Amended Ord. 59 approved Gen. Elec. 1974, further amended and renumbered Gen. Elec. 1990)

Section 5-1.5. Temporary Absence or Disability. During the temporary absence or disability of the mayor, the managing director shall act as mayor. If the office of managing director is vacant, or during such periods as the managing director is unable to so act, the director of finance shall then act as mayor. (Renumbered Gen. Elec. 1990)

Section 5-1.6. Removal of Mayor. The mayor may be removed by impeachment or recall proceedings as provided by this charter. (Amended Gen. Elec. 1980 and renumbered Gen. Elec. 1990)

CHAPTER 2
COST OF GOVERNMENT COMMISSION

(Ed. note: This chapter, consisting of three sections, was added by 2000 Charter Amend. 11 which took effect on November 7, 2000. The original Article V, Chapter 2, entitled "Corporation Counsel" is now Article VI, Chapter 2.)

Section 5-2.1. Declaration of Policy. It is declared to be the policy of the county to promote economy, efficiency and improved service in the transaction of the public business in the legislative and executive branches of the county by:

1. Limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions.
2. Eliminating duplication and overlapping of services, activities and functions.
3. Consolidating services, activities and functions of a similar nature.
4. Abolishing services, activities and functions not necessary to the efficient conduct of government. (Added 2000 Charter Amend. 11)

Section 5-2.2. Cost of Government Commission. For the purpose of carrying out the policy set forth herein the mayor with the approval of the council shall appoint a cost of government commission consisting of nine members. One member shall be a resident of each council district. The managing director shall be an ex-officio member of the commission. The office of the mayor shall provide administrative and clerical services to the commission.

Each commission shall:

1. Prepare and submit to the mayor a request for an appropriation for the operation of the commission.
2. Study and investigate the organizations and methods of operations of all departments, commissions, boards, offices and other instrumentalities of all branches of the county government and determine what changes, if any, may be desirable to accomplish the policy set forth herein.
3. Be authorized to secure directly from any department, commission, board, office or any other instrumentalities of all branches of the county government or from any individual officer or employee of the county, information, suggestions, estimates and statistics necessary to carry out its duties.
4. Submit a report of its findings and recommendations to the mayor, managing director and council not later than eleven months after its appointment. (Added 2000 Charter Amend. 11)

Section 5-2.3 Term of Commission. The commission members shall be appointed to terms starting one year after the beginning of the term of the mayor, and lasting eleven months. (Added 2000 Charter Amend. 11)

ARTICLE VI
EXECUTIVE BRANCH
THE MANAGING DIRECTOR AND AGENCIES
UNDER THE MANAGING DIRECTOR

CHAPTER 1
OFFICE OF MANAGEMENT

(Ed. notes: 1) Data Systems. See note preceding Article V. 2) Reorganization; new department. 2000 Charter Amend. 2 directed that this Article be reorganized by adding departments, previously under the Mayor (contained in Article V), and the newly created (2000 Charter Amend. 4) Department of Environmental Management. 3) Managing Director. The title of this Article was changed from "Managing Director" to "Office of

Management." The full text of 2000 Ballot Questions 2 & 7 prepared by the Commission added similar, but not identical, qualifications for the position. Section 13 of Question 7 stated that if both proposals were approved, the language of Charter Amend. 2 would supercede the language of proposed Charter Amend. 7. 4) Effective date. The changes made by Charter Amend. 2 and 7 took effect at twelve noon, December 4, 2000. 5) Fire Department. Ballot Question 3, which was also approved by the voters in 2000, placed the Fire Department, under a new Fire Commission. However, Ballot Question 3 and the full text of the amendment did not contain a directive to move Article VI, Chapter 4, to Article VII, entitled "EXECUTIVE BRANCH-DEPARTMENTS OF AGENCIES UNDER COMMISSIONS." Given the directive contained in Charter Amend. 2 (to reorganize Article VI) and given the clear intent and purpose of Charter Amend. 3, the amended chapter relating to the Fire Department was moved to Article VII in this edition.)

Section 6-1.1. Organization. There shall be an office of management consisting of the managing director and the necessary staff. (Amended 2000 Charter Amend. 2)

Section 6-1.2. Managing Director. The managing director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The managing director shall have had five years of experience in an administrative capacity, and shall possess demonstrable education and/or professional experience as required of the office. (Amended 2000 Charter Amend. 2 and 7)

Section 6-1.3. Powers, Duties and Functions. The managing director shall:

- (a) Act as the principal management aide to the mayor.
- (b) Supervise the administrative functioning of all agencies, departments, boards and commissions.
- (c) Recommend to the mayor the annual operating and capital improvement budgets.
- (d) Evaluate the management and performance of each executive agency, and make reports to the mayor and the council on the findings and recommendations of such evaluation. A report shall be made to the responsible commission whenever an evaluation is performed on a department or agency under a commission.
- (e) Prescribe standards of administrative practice to be followed by all agencies under the managing director's supervision.
- (f) Attend meetings of the council or of any board or committee, when requested by the mayor.
- (g) Attend meetings of the council and its committees upon request and make available such information as they may require.
- (h) Perform all other duties as required by this charter or assigned by the mayor. (Amended 2000 Charter Amend. 2)

CHAPTER 2 CORPORATION COUNSEL

(Ed. note: This chapter was previously Article V, Chapter 2. The original Article VI Chapter 2, "Department of Public Works", is now Article VI, Chapter 7.)

Section 6-2.1. Organization. There shall be a department of the corporation counsel consisting of the corporation counsel, assistant corporation counsel and the necessary staff. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-2.2. Appointment and Removal. The corporation counsel shall be appointed by the mayor, confirmed by the council and may be removed by the mayor with the approval of the council. The corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court

of the State of Hawaii. (Amended Gen. Elec. 1980, moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-2.3. Powers, Duties and Functions. The corporation counsel shall be the chief legal advisor and legal representative of all county agencies, the council and all officers and employees in matters related to their official powers and duties. The corporation counsel shall represent the county in all civil legal proceedings and shall perform all other services incident to the office as may be required by law. The corporation counsel shall, however, be prohibited from representing any elected officer in impeachment proceedings. (Amended Gen. Elec. 1980 and moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-2.4. Assistant Corporation Counsel. The assistant corporation counsel shall be appointed by the corporation counsel and may be removed by the counsel. The assistant corporation counsel shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-2.5. Special Counsel. The council may, by two-thirds vote of its entire membership, authorize the employment of special counsel for any special matter presenting a real necessity for such employment. Any such authorization shall specify the compensation, if any, to be paid for said services. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-2.6. Term of Office. Notwithstanding section 13-8, the term of office of the corporation counsel, assistant corporation counsel and deputies shall be co-terminous with that of the mayor; provided that where a successor has not been appointed and confirmed, the corporation counsel shall continue in office pending such appointment and confirmation, but in no event shall the corporation counsel continue in office beyond three months, whether acting or otherwise. (Added Gen. Elec. 1980 and moved and renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 3 DEPARTMENT OF FINANCE

(Ed. note: This chapter was previously Article V, Chapter 3. The original Article VI, Chapter 3, "Department of Parks and Recreation," is now Article VI, Chapter 8.)

Section 6-3.1. Organization. There shall be a department of finance consisting of the director of finance and the necessary staff. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-3.2. Appointment and Removal. The director of finance shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The finance director shall have had a minimum of five years of training and experience in budgeting or related fields, at least three years of which shall have been in a responsible supervisory capacity. A deputy finance director shall have had a minimum of three years of training and experience in a responsible financial position. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 7, moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-3.3. Powers, Duties and Functions. The director of finance shall be the finance officer of the county and shall:

- (a) Assist the mayor in the preparation and execution of the operating budget, operating program and capital budget.
- (b) Collect special assessments as provided by and subject to law.
- (c) Negotiate loans and the issuance and sale of bonds and notes when authorized by the council; maintain records of county indebtedness and have charge of the payment of interest and principal thereon.

(d) Have custody of all public funds belonging to or under the control of the county, county agency or executive agency, and deposit all such funds in banks or trust companies designated as depositories by resolution of the council, subject to the requirements imposed by law as to surety and payment of interest, which interest shall accrue to the benefit of the public and shall be credited to the proper fund and account.

(e) Examine all contracts, orders and other documents by which financial obligations are incurred; approve every such document shall be subject to director of finances' approval but the director of finance shall not approve unless the director of finance first verifies the appropriation, allotment and availability of funds to meet the obligation concerned and verifies thereto as provided in section 10-11. (Ed Note: The words "shall be" after "document" and before "subject" appear to be extraneous.)

(f) Prepare and issue warrants, prepare payrolls and pension rolls and disburse all funds in the county treasury. No money shall be paid out of the treasury unless the finance director first (i) verifies the appropriation, allotment and availability of funds to cover the claim concerned and certifies thereto as provided in section 10-11 and (ii) determines that such claim is regular in form, correctly computed and constitutes a legal obligation.

(g) Maintain a general accounting system for the county and require all county agencies and executive agencies to report and remit all receipts to the finance director as often as the finance director deems desirable.

(h) Each month submit to the mayor and to the council through the mayor a statement of the revenues and expenditures for the preceding month and for the fiscal year up to and including the preceding month. Such statement shall be sufficiently detailed as to appropriations, allotments and funds to show the exact financial condition of the county and of each of its agencies and executive agencies.

(i) Submit to the council through the mayor at the end of each fiscal year, a report of the financial transactions of that year and a complete statement of the financial condition of the county at the end of the year, within ninety days after the end of the year.

(j) Prepare and maintain a perpetual inventory of all lands, roadways, streets, easements and other land interests owned, leased, rented or controlled by the county.

(k) Prepare and maintain a perpetual inventory of equipment owned or controlled by the county and materials and supplies in county storerooms, and dispose of property not needed by any agency or executive agency of the county pursuant to policies established by ordinance.

(l) Where not in conflict with this charter, assume and perform all the duties and functions of the purchasing agent, the treasurer and the auditor of the county as provided by law, and for this purpose the director of finance shall be authorized to appoint a deputy, to assign and reassign such duties to any employee as he sees fit and to make internal administrative and organizational changes as the finance director sees fit, subject to the approval of the mayor.

(m) Exercise such other powers and perform such other duties as may be prescribed by this charter, by ordinance, by law or by the mayor or managing director. (This section moved and renumbered pursuant to 2000 Charter Amend. 2, which also amended subsection (m).)

Section 6-3.4. Pension Board. There shall be a pension board consisting of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4. The pension board shall assume the duties and functions of the pension board of the county and the board of trustees of the policeman, firemen, and bandsmen as provided by law and shall be attached to the department of finance. The county clerk and

the director of finance shall ex-officio be the secretary and treasurer, respectively, of the pension board. (Amended Gen. Elec. 1980, moved and renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 4 PLANNING DEPARTMENT

(Ed. notes: 1) This chapter was previously Article V, Chapter 4. 2000 Ballot Question 7, relating to Department Head Qualifications, proposed "stronger qualifications" for five department heads and the managing director. Section 2 of the full text of the amendment prepared by the Charter Commission, in displaying the second sentence of Section 5-4.2 (as it existed prior to the 2000 amendment) inadvertently omitted language added by the voters in 1998 to the effect that the planning director is "the chief planning officer of the county." It was retained in this edition. 2) This chapter originally included a section 5-4.4, entitled, "Board of Appeals," which was moved in 1980 and became section 5-6.3. Pursuant to 2000 Charter Amend. 2 it has been renumbered as section 6-10.2.)

Section 6-4.1. Organization. There shall be a planning department consisting of a planning director, a planning commission and the necessary staff. (Amended Gen. Elec. 1980, moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-4.2. Planning Director. The planning director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The planning director shall have had a minimum of five years' training and experience in a responsible planning position, or a degree in planning, engineering, architecture, geography or another planning-related field and three years' experience in a responsible planning position. No less than three years' experience shall have been in an administrative capacity. The director shall be the chief planning officer of the county and the administrative head of the department and shall:

(a) Advise the mayor, planning commission and council on all planning and land use matters.

(b) Prepare a general plan, implementation plans and any amendments thereto in accordance with section 3-15.

(c) Prepare proposed zoning and subdivision ordinances, zoning maps and regulations and any amendments thereto.

(d) Review the lists of proposed capital improvements contemplated by agencies of the county and recommend the order of their priority.

(e) Administer the subdivision and zoning ordinances and regulations adopted thereunder.

(f) Render decisions on proposed subdivision plans pursuant to law.

(g) Make recommendations on rezoning applications, special exceptions and other similar requests.

(h) Render decisions on proposed variances pursuant to law, except that, if any written objections are made to the planning director's actions under this section, said actions shall be subject to review by the board of appeals in accordance with section [6-10.2], unless otherwise provided by law or this charter. (Amended Gen. Elec. 1998, cross-reference changed to reflect renumbering of section 5-6.3. pursuant to 2000 Charter Amend. 2)

(i) Perform such other related duties and functions as may be necessary or required pursuant to law and this charter. (Section amended Gen. Elec. 1980, 1998 and 2000 Charter Amend. 7; moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-4.3. Planning Commission. The planning commission shall consist of nine members, one from each council district, who shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4. Each member shall be a legal resident and registered voter

of the district which the member represents. In addition, the director of public works and the manager of the department of water supply, or their designated representatives, shall serve as ex-officio members of the commission without power to vote. The commission shall establish its rules of procedure and shall:

(a) Advise the mayor, council and the planning director on planning and land use matters pursuant to law and this charter.

(b) Review the general plan, its amendments and other plans and modifications thereof and transmit such plans with recommendations thereon through the mayor to the council for consideration and action.

(c) Review proposed subdivision and zoning ordinances and amendments thereto and transmit such ordinances with recommendations thereon through the mayor to the council for consideration and action.

(d) Conduct public hearings in every case prior to action on any matter upon which the commission is required by law or this charter to act. Notice of the time and place of the hearing shall be published at least ten days prior to such hearing in at least two daily newspapers of general circulation in the county.

Perform such other related duties and functions as may be necessary or required pursuant to law and this charter. (Amended Gen. Elec. 1980, 1990, 1998 and 2000 Charter Amend. 7; moved and renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 5

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

(Ed. notes: This chapter was added pursuant to 2000 Charter Amend. 4 and took effect on December 4, 2000. The terms of the commission members were to have begun on January 1, 2001. Section headings were added in this edition for sections 6-5.1 and 6-5.3)

Section 6-5.1. [Organization.] There shall be a department of environmental management consisting of a director, the necessary staff and an environmental management commission. (Added 2000 Charter Amend. 4)

Section 6-5.2. Statement of Policy. The department of environmental management is established to protect, preserve and enhance our environment by promoting the wise management of our waste. (Added 2000 Charter Amend. 4)

Section 6-5.3. [Director.] The director of environmental management shall be appointed by the mayor, confirmed by the council, and may be removed by the mayor. The director shall have had a minimum of five years' administrative experience in a related field. (Added 2000 Charter Amend. 4)

Section 6-5.4. Powers, Duties and Functions. The department of environmental management shall manage the solid waste, wastewater and recycling programs of the county, and exercise other functions prescribed by ordinance. (Added 2000 Charter Amend. 4)

Section 6-5.5. Environmental Management Commission. There shall be an environmental management commission consisting of nine members who shall be appointed by the mayor and confirmed by the council. One member shall be a resident of each council district. The terms of the members shall be as prescribed in section 13-4. The environmental management commission shall advise the department on waste reduction strategies, recycling, litter control, community involvement and other issues related to the functions of the department, and shall exercise any other powers related to the functions of the department that may be delegated to it by ordinance. (Added 2000 Charter Amend. 4)

CHAPTER 6

DEPARTMENT OF RESEARCH AND DEVELOPMENT

(Ed. note: This chapter was previously Article V, Chapter 5.)

Section 6-6.1. Organization. There shall be a department of research and development consisting of a director and the necessary staff. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-6.2. Director. The director of research and development shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall have had a minimum of five years' related experience. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 7; moved and renumbered pursuant to 2000 Charter Amend. 2)

Section 6-6.3. Powers, Duties and Functions. The director of research and development shall:

(a) Collect and develop data necessary for managerial and legislative decision-making, and program and policy-making.

(b) Provide staff leadership for public and private development programs, enterprises and plans, including economic, social and cultural proposals, which enhance improvement of the county community.

(c) Coordinate informational and regulatory knowledge of all federal and state grant-in-aid participation programs which affect the county. (Moved and renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 7

DEPARTMENT OF PUBLIC WORKS

(Ed. note: Pursuant to the full text of 2000 Charter Amend. 7, the position of "chief engineer" was changed to "director of public works." This chapter was previously Article VI, Chapter 2.)

Section 6-7.1. Organization. There shall be a department of public works consisting of a director and the necessary staff. (Amended 2000 Charter Amend. 7; renumbered pursuant to Charter Amend. 2)

Section 6-7.2. Director. The director of public works shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall be a registered professional engineer. The director shall have had a minimum of five years' experience in an administrative capacity. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 7; renumbered pursuant to 2000 Charter Amend. 2)

Section 6-7.3. Powers, Duties and Functions. The powers, duties and functions of the department of public works shall be prescribed by ordinance and shall be exercised and performed by the department. (Renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 8

DEPARTMENT OF PARKS AND RECREATION

(Ed. note: This chapter was previously Article VI, Chapter 3.)

Section 6-8.1. Organization. There shall be a department of parks and recreation consisting of a parks and recreation director and the necessary staff. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-8.2. Director. The parks and recreation director shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. The director shall have had a minimum of five years' experience in an administrative capacity. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 7; renumbered pursuant to 2000 Charter Amend. 2)

Section 6-8.3. Powers, Duties and Functions. The powers, duties and functions of the department of parks and recreation shall be prescribed by ordinance and shall be exercised and performed by the department. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-8.4. County Bands. The county bands shall be a part of the department of parks and recreation for administrative purposes. The bandmasters shall be appointed by the mayor and may be removed by the mayor. The members of the bands and other employees connected therewith shall be appointed by the bandmasters and maybe removed by the bandmasters with the approval of the managing director, and all positions in the band shall be exempt from civil service laws and classifications. (Renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 9

DATA SYSTEMS DEPARTMENT

(Ed. note: This chapter was established by a charter amendment approved at the 1998 Gen. Elec. This chapter was previously Article V, Chapter 5A and was moved pursuant to the intent of 2000 Charter Amend. 2; see note preceding Article V.)

Section 6-9.1. Organization. There shall be a department of data systems consisting of the director of data systems and necessary staff. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-9.2. Appointment and Removal. The director of data systems shall be appointed by the mayor, confirmed by the council and may be removed by the mayor. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-9.3. Qualifications. The director of data systems shall have had a minimum of five years of experience in the field of electronic data processing, telecommunications networking, and development, implementation and operation of business-oriented applications, at least three years of which shall have been in an administrative and managerial capacity in a computer system environment at least comparable to that of the county's system. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-9.4. Powers, Duties and Functions. The director of data systems shall:

(a) Operate the central data processing system, and coordinate and oversee the operations of departmental data processing systems, except for those systems maintained by the department of water supply.

(b) Provide technical expertise in data processing and telecommunication to applicable departments and agencies of the county.

(c) Assist in the development of management information.

(d) Advise the mayor on matters relating to data processing and telecommunication.

(e) Perform such other duties as may be required by law. (Renumbered pursuant to 2000 Charter Amend. 2)

CHAPTER 10

MISCELLANEOUS

(Ed. notes: This chapter was previously Article V, Chapter 6. It was moved and renumbered pursuant to 2000 Charter Amend. 2. This chapter previously contained a section 5-6.2 relating to the safety coordinator. 2000 Charter Amend. 6 eliminated the section and the position, and transferred the duties to the director of civil service effective December 4, 2000.)

Section 6-10.1. Clerical Pool. There may be a clerical pool consisting of such positions as the mayor may recommend and for which appropriations have been made by the council. The purpose of such pool shall be to provide periodic staff assistance to the various agencies of the county when necessitated by heavy workloads. The clerical pool shall be attached to the mayor's office for purposes of administration, assignment and coordination but the personnel of the clerical pool shall be subject to the

civil service laws of the state. (Renumbered pursuant to 2000 Charter Amend. 2)

Section 6-10.2. Board of Appeals. The board of appeals shall consist of seven members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4. Each member shall be a legal resident and a registered voter of the county. Board membership shall be representative of the community, and, whenever possible, persons with background or expertise in broad areas of planning and construction shall be given preference, although such knowledge is not a prerequisite for membership. The board of appeals shall establish its rules of procedure and shall:

(a) Hear and determine appeals from final decisions of the planning director or the director of public works regarding matters within their respective jurisdictions.

(b) Conduct hearings in accordance with Chapter 91, Hawaii Revised Statutes, and this charter.

(c) Be part of the planning department for administrative purposes, and said department shall provide necessary clerical and other assistance. (This section was originally section 5-4.4, it was amended and renumbered as section 5-6.3 in the 1980 Gen. Elec. It was further amended Gen. Elec. 1998 and 2000 Charter Amend. 7; renumbered pursuant to 2000 Charter Amend. 2)

ARTICLE VII EXECUTIVE BRANCH-DEPARTMENTS OR AGENCIES UNDER COMMISSIONS

CHAPTER 1 DEPARTMENT OF CIVIL SERVICE

(Ed. note: This the name of the department was changed from the Department of Personnel Services in 1980.)

Section 7-1.1. Organization. There shall be department of civil service consisting of a director, a civil service commission and the necessary staff. (Amended Gen. Elec. 1980)

Section 7-1.2. Civil Service Commission. The civil service commission shall consist of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4. Commission membership shall be representative of the community and the members shall all be in sympathy with and believe in the principles of the merit system in public employment. (Amended Gen. Elec. 1980 and 1990)

Section 7-1.3. Director. The director of civil service shall be appointed by the civil service commission and may be removed by the commission. (Amended Gen. Elec. 1980)

Section 7-1.4. Powers, Duties and Functions. The director of civil service shall be responsible for the personnel management program of the county with two distinct categories of duties. The major duties shall be in the areas of equal employment opportunities, personnel development, personnel deployment, personnel relations and personnel welfare including employee safety and workers' compensation. The secondary duties of the director shall be the administration of the civil service system and the maintenance of the aims and mechanics prescribed by statute. The director shall be the administrative head of the department of civil service and shall be responsible for the proper conduct of all the administrative affairs of the department and for execution of the personnel program prescribed by this charter, ordinances, laws and regulations. The civil service commission shall function according to statute. The director shall provide technical and clerical staff services to the commission. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 6, effective December 4, 2000.)

Section 7-1.5. Position Classification Plan; Compensation. Except as otherwise provided by law or this charter, all positions in the service of the county shall be classified within a position classification plan, and all persons holding such positions shall be compensated as provided by the compensation law of the state.

Section 7-1.6. Administrative Supervision. The department of civil service shall come under the general supervision and control of the mayor.

CHAPTER 2 POLICE DEPARTMENT

Section 7-2.1. Organization. There shall be a police department consisting of a police commission, a chief of police, a deputy chief of police, and the necessary staff. (Amended, 1990 Gen. Elec.)

Section 7-2.2. Police Commission.

(a) The police commission shall consist of nine members. One member shall be a resident of each council district. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4.

(b) Statement of policy. It is hereby declared to be the purpose of this chapter of the charter to establish in the county a system of law enforcement which shall be based on due regard for the constitutional rights of all persons, which shall promote the highest possible degree of mutual respect between law enforcement officers and the people of the county and which shall provide for the expeditious apprehension of those who violate the law. In order that these purposes may be achieved, the police department shall be operated in accordance with the following:

(1) Standards of recruitment shall be designed to attract into the service persons with high degrees of education, intelligence and personal stability.

(2) Promotions shall be based upon fair standards of merit and ability which shall include peacekeeping and law enforcement criteria.

(3) Grievance procedures for the people and police officers of the county shall be based on due regard for their constitutional rights.

(c) Powers and Duties. The police commission shall:

(1) Adopt such rules as it may consider necessary for the conduct of its business and the regulation of the matters committed to its charge and may review the rules and regulations of the department.

(2) Review the annual budget prepared by the chief of police and may make recommendations thereon to the mayor and managing director.

(3) Submit an annual report to the mayor, managing director and the council.

(4) Receive, consider and investigate charges brought by the public against the conduct of the department or any of its members and submit a written report of its findings to the chief of police. A summary of the charges filed and their disposition shall be included in the annual report of the commission. There shall be budgeted sufficient funds in the annual budget of the police department for use by the police commission to fulfill the intent of this section.

(5) Advise the chief of police on police-community relations.

(6) Review the department's operations, as deemed necessary, for the purpose of recommending improvements to the police chief and the managing director.

(7) Evaluate at least annually the performance of the police chief and submit a report to the mayor, managing director and the council.

(8) Hire personnel necessary to carry out its functions.

(9) Except for purposes of inquiry, neither the commission nor its members shall interfere in any way with the administrative affairs of the department.

(Amended Gen. Elec. 1980, 1990, 1994 and 2000 Charter Amend. 2 and 8)

Section 7-2.3. Chief of Police and Deputy. The chief of police shall be appointed by the police commission and may be removed by the police commission at its sole discretion. Any motion for removal of the chief of police must contain a statement of reasons, and the commission shall not vote to remove the chief of police unless the chief of police has been given an opportunity to respond to the statement of reasons at a hearing before the commission. The deputy shall be appointed by the chief of police with the confirmation of the police commission and may be removed by the chief of police with the approval of the commission, without cause being stated. The chief of police shall have had a minimum of five years of training and experience in law enforcement work, including at least three years in a responsible administrative capacity. (Ed note: The original section 7-2.3, entitled, "Department Rules," was repealed in 1980 and subsequent sections were renumbered. This section was amended Gen. Elec. 1990)

Section 7-2.4. Powers, Duties, and Functions of the Chief of Police. The chief of police shall be the administrative head of the police department and shall:

(a) Be responsible for the preservation of the public peace, prevention of crime, detection and arrest offenders against the law, protection of the rights of persons and property, and enforcement and prevention of violations of all laws of the state and ordinances of the county and all regulations made in accordance therewith.

(b) Train, equip, maintain, and supervise the force of police officers and employees.

(c) Promulgate rules and regulations for the organization and administration of the police force.

(d) Make periodic reports to the police commission about the activities of the police department and about actions taken on cases investigated by the police commission.

(e) Have such other powers, duties, and functions as may be required by the police commission or provided by law. (Amended and renumbered Gen. Elec. 1980 and 1990)

Section 7-2.5. Dismissal, Suspension, Demotion, or Grievance. The dismissal, suspension, demotion, or grievance of any police officer or employee in the police department shall be under procedures set forth by civil service laws and regulations. (Renumbered Gen. Elec. 1980)

Section 7-2.6. Administrative Supervision. The police department shall come under the general supervision and control of the mayor, through the managing director. (Amended 2000 Charter Amend. 2)

CHAPTER 3

DEPARTMENT OF LIQUOR CONTROL

Section 7-3.1. Organization. There shall be a department of liquor control consisting of a liquor commission, a liquor control adjudication board, a director of the department and the necessary staff.

Section 7-3.2. Liquor Commission. There shall be a liquor commission consisting of nine members who shall be appointed by the mayor and confirmed

by the council in the manner prescribed in section 13-4. One member shall be a resident of each council district. The liquor commission shall:

(a) Adopt rules and regulations having the force and effect of law for the administration of liquor control in the county and to carry out provisions of the liquor control laws of the state.

(b) Grant, renew or refuse applications for licenses for the manufacture, importation and sale of liquor in the county under applicable laws and regulations.

(c) Have such other powers and duties as may be provided by law, not in conflict with the provisions of this section. (Amended Gen. Elec. 1980 and 2000 Charter Amend. 14. Ed. notes: Change from seven to nine members took effect on December 4, 2000. Pursuant to Section 3 of 2000 Charter Amend. 14, to allow for the staggering of terms, one of the two new commissioners shall be appointed to a five-year term. The other shall be appointed to a one-year term, and shall be eligible for a second term under section 13-4(c).)

Section 7-3.3. Liquor Control Adjudication Board. There shall be a liquor control adjudication board consisting of five members who shall be appointed by the mayor and confirmed by the council in the manner prescribed in Section 13-4.

The liquor control adjudication board shall hear and determine all complaints regarding violations of the liquor control laws of the state, or complaints regarding violations of rules and regulations established by the liquor commission and impose such fines or punishment as maybe provided by law upon the conviction thereof. (Amended Gen. Elec. 1980)

Section 7-3.4. Director of the Department of Liquor Control. The director of the department of liquor control shall be appointed by the liquor commission and may be removed by the liquor commission. The director of the department of liquor control shall:

(a) Be the administrative head of the department.

(b) Provide clerical and administrative services for the liquor commission and the liquor control adjudication board, including the submission of budget for the operation of the department.

(c) Investigate complaints regarding violations of the liquor control laws of the state or complaints regarding violations of rules and regulations established by the liquor commission and report such violations to the prosecuting officer of the county. (Stylistic change to (c) in 1980)

Section 7-3.5. Administrative Supervision. The department of liquor control shall come under the general supervision and control of the mayor, through the managing director. (Amended 2000 Charter Amend. 2)

CHAPTER 4 FIRE DEPARTMENT

(Ed. note: This chapter was previously Article VI, Chapter -- see note preceding Article VI.)

Section 7-4.1. Organization. There shall be a fire department consisting of a fire chief, a deputy fire chief, a fire commission and the necessary staff. The fire chief shall be the administrative head of the fire department. (Amended 2000 Charter Amend. 3)

Section 7-4.2. Statement of Policy. It is hereby declared to be the purpose of this chapter to establish in the county a system of fire protection and prevention and emergency services which shall be based on qualified and professional leadership and personnel. In order to achieve this purpose, the fire department shall be operated in accordance with the following:

(a) Standards for recruitment shall be designed to attract into the department persons with high degrees of education, intelligence and personal stability.

(b) Promotions and other personnel actions shall be based upon fair and appropriate standards of merit, ability and work performance.

(c) Appropriate training shall be provided to the maximum extent possible and practicable. (Added 2000 Charter Amend. 3. The original section 6-4.2, "Fire Chief," was renumbered section 7-4.3 below.)

Section 7-4.3. Fire Chief. The fire chief shall be appointed by the fire commission and may be removed by the fire commission at its sole discretion. Any motion for removal of the fire chief must contain a statement of reasons, and the fire chief must be allowed to respond to the statement of reasons before being removed. The fire chief shall have had a minimum of five years' training and experience in fire control, including at least three years' experience in a responsible administrative capacity. (Previously Section 6-4.2, amended Gen. Elec. 1980, renumbered and amended 2000 Charter Amend. 3 and 7)

Section 7-4.4. Powers, Duties and Functions. The fire chief shall:

(a) Perform firefighting and emergency services in order to save lives and property from fires and from emergencies arising on land, on the sea and hazardous terrain.

(b) Train, equip, maintain and supervise a force of firefighting and emergency services personnel.

(c) Monitor the construction and occupancy standards of buildings for the purposes of fire prevention and life safety.

(d) Provide educational programs related to fire prevention and life safety.

(e) Appoint the deputy fire chief and the private secretaries to the fire chief and the deputy fire chief.

(f) Have such other powers, duties and functions as may be required by ordinance. (Previously Section 6-4.3, amended Gen. Elec. 1980, renumbered and amended 2000 Charter Amend. 3)

Section 7-4.5. Fire Commission. There shall be a fire commission, which shall consist of nine members. One member shall be a resident of each council district. The commission may appoint such staff and engage such consultants as necessary for the performance of its duties. The members shall be appointed by the mayor and confirmed by the council in the manner prescribed in section 13-4. (Added 2000 Charter Amend. 3)

Section 7-4.6. Powers, Duties and Functions. The fire commission shall:

(a) Adopt rules necessary for the conduct of its business and review rules for the administration of the department.

(b) Review the annual budget prepared by the fire chief and make recommendations thereon to the mayor, the managing director and the council.

(c) Review the department's operations, as deemed necessary, for the purposes of recommending improvements to the fire chief.

(d) Evaluate at least annually the performance of the fire chief and submit a report to the mayor, the managing director and the council.

(e) Review personnel actions within the department for conformance with the policies under section [7-4.2] of this charter.

(f) Hear complaints of citizens concerning the department or its personnel and, if necessary, make recommendations to the fire chief on appropriate corrective actions.

(g) Submit an annual report to the mayor, managing director and the council on its activities.

Except for purposes of inquiry or as otherwise provided in this charter, neither the commission nor its members shall interfere in any way

with the administrative affairs of the department. (Added 2000 Charter Amend. 3)

**ARTICLE VIII
DEPARTMENT OF WATER SUPPLY**

(Ed. note: Changes to this chapter took effect on December 4, 2000.)

Section 8-1. Organization. There shall be a semi-autonomous department of water supply consisting of a water board, manager and the necessary staff. (Amended Gen. Elec. 2000 Charter Amend. 9)

Section 8-2. Water Board. The water board shall consist of nine members who shall be appointed by the mayor with the approval of the council in the manner prescribed in section 13-4. One member shall be a resident of each council district. The manager of the department of water supply, the planning director and [the director of public works] of the county or their designated representatives shall serve as ex-officio members of the water board without power to vote. The water board shall:

(a) Manage, control and operate the waterworks of the county and all property thereof.

(b) Adopt rules and regulations which shall have the force and effect of law relating to the management, control, operation, preservation and protection of the waterworks of the county.

(c) Adopt an annual operating and capital budget for the department, subject to the hearing and advertising provisions of section 10-4.

(d) Have the power to acquire by eminent domain, purchase, lease or otherwise, and to sell, lease or otherwise convey real property in the name of the water board.

(e) Have the authority to issue revenue bonds under the name of the water board.

(f) Have such other powers and duties as may be provided by law. (Amended 2000 Charter Amend. 7 and 9. Ed. note: Pursuant to 2000 Charter Amend. 7, the title of "chief engineer" was changed to "director of public works.")

Section 8-3. Manager and Deputy. The manager of the department of water supply shall be appointed by the water board and may be removed by the water board. The deputy shall be appointed by the manager with the confirmation of the water board and may be removed by the manager with the approval of the water board. The manager shall be a registered engineer and shall have had a minimum of five years' experience in an administrative capacity. (Amended 2000 Charter Amend. 7 and 8)

Section 8-4. Water Fund. There shall be established a separate water fund which shall be utilized solely for water purposes. State and federal water grants or appropriations and revenues from operation of the water system shall be included in the water fund.

Section 8-5. Administrative Supervision. The department of water supply shall come under the general supervision and control of the mayor, through the managing director. (Amended 2000 Charter Amend. 2)

**ARTICLE IX
PROSECUTING ATTORNEY**

Section 9-1. Election and Term of Office. The prosecuting attorney shall be elected for a term of four years, which term shall commence at twelve o'clock meridian on the first Monday of December following the election.

Section 9-2. Qualifications. The prosecuting attorney shall be an attorney licensed to practice and in good standing before the Supreme Court of the State of Hawaii. The prosecuting attorney shall be a citizen of the United States of America and shall have been a duly qualified elector of the

county for at least one year immediately preceding the election. (Amended Gen. Elec. 1980)

Section 9-3. Powers, Duties and Functions. The prosecuting attorney shall:

(a) Attend all courts in the county and conduct on behalf of the people all prosecutions therein for offenses against the laws of the state and the ordinances and regulations of the county.

(b) Prosecute offenses against the laws of the state under the authority of the attorney general of the state.

(c) Appear in every criminal case where there is a change of venue from the courts in the county and prosecute the same in any jurisdiction to which the same is changed or removed. The expense of such proceeding shall be paid by the county.

(d) Institute proceedings, or direct the chief of police to do so, before the district judges for the arrest of persons charged with or reasonably suspected of public offenses, when the prosecuting attorney has information that any such offenses have been committed, and for that purpose take charge of criminal cases before the district judges, either in person or by a deputy or by such other prosecuting officer as the prosecuting attorney shall designate.

(e) Draw all indictments and attend before and give advice to the grand jury whenever cases are presented to it for its consideration. Nothing herein contained shall prevent the conduct of proceedings by private counsel before district judges or courts of record under the direction of the prosecuting attorney.

(f) Investigate all matters which may properly come before the prosecuting attorney. (Ed note: This section was previously section 9-4. The original section 9-3 relating to "Compensation" was amended in 1980 and deleted in 1990 with its subject matter incorporated into section 13-28. All subsequent sections, were renumbered at that time.)

Section 9-4. Staff. The prosecuting attorney may appoint deputies and other necessary staff. The deputy who is designated as first deputy shall, during temporary absence or disability of the prosecuting attorney, assume the power and perform the duties of the prosecuting attorney. (Renumbered Gen. Elec. 1990)

Section 9-5. Vacancy in Office. A vacancy in the office of prosecuting attorney shall be filled by the first deputy who shall act as prosecuting attorney, or if the position of first deputy is vacant or if the first deputy is unable to so act, the mayor with the confirmation of the council shall fill the vacancy by appointment of a person with the requisite qualifications within thirty days after the occurrence of the vacancy.

The first deputy or the person appointed to fill the vacancy shall serve until a successor is duly elected at the next state or state and county election and seated. The election shall be held in accordance with the election laws of the state insofar as applicable.

The person elected as the successor shall serve out the unexpired term of the person succeeded commencing at twelve o'clock meridian on the first Monday of December following election. (Amended by Ordinance No. 59, approved 1974, renumbered Gen. Elec. 1990)

Section 9-6. Removal of Prosecuting Attorney. The prosecuting attorney may be removed by impeachment or recall proceedings as provided by this charter. (Amended and renumbered Gen. Elec. 1990)

ARTICLE X
FINANCIAL PROCEDURES

Section 10-1. Fiscal Year. The fiscal year of the county shall begin on the first day of July and end on the last day of June of the succeeding year.

Section 10-2. Preparation and Submission of Budget and Capital Program.

(a) No later than March 1 of each year, the mayor shall submit to the county council:

- (1) An operating budget for the ensuing year.
- (2) An operating program for the ensuing three fiscal years.
- (3) A capital budget for the ensuing fiscal year.
- (4) A capital program for the ensuing six fiscal years.
- (5) An accompanying message.

The mayor shall submit amendments to the operating budget, operating program, capital budget, and capital program, together with an accompanying message, to the county council within ten (10) working days after the close of the state legislature but not later than May 5 of each year.

(b) On or before the date specified by the mayor, the head of each county agency and executive agency shall furnish the mayor:

- (1) Estimates for the current fiscal year and ensuing fiscal years covering the revenues and expenditures of the agency or executive agency concerned.
- (2) Estimates of any capital improvements pending or proposed to be undertaken within the ensuing fiscal year and within the five fiscal years thereafter.
- (3) Such other information as the mayor may request.

(c) The mayor shall review all the estimates furnished. The mayor may hold public hearings thereon and may revise the estimates in such manner as the mayor deems advisable in preparing the budgets and programs.

(d) Upon submission, the budgets, the programs and message shall be a public record in the office of the clerk of the county council and shall be open to public inspection. The mayor shall at the same time make available copies of the budgets, the programs and message for distribution to interested persons. (Amended by Ordinance No. 57, approved 1974, further amended Gen. Elec. 1990)

Section 10-3. Scope of Operating Budget; Operating Program; Mayor's Message.

(a) The operating budget shall present a complete financial plan for the current operations of the county and its agencies and executive agencies in the ensuing fiscal year, showing all funds and reserves. Capital expenditures to be financed from current revenues in the ensuing fiscal year shall be included in the operating budget as well as in the capital budget. Appropriations for such expenditures shall be included in the operating budget. Except as otherwise provided by law, the operating budget shall contain at least the following:

- (1) A simple, clear, general summary of the detailed contents of the operating budget. Such summary shall itemize all new positions being requested.
- (2) The proposed expenditures, including provision for any estimated cash deficit for the fiscal year currently ending, debt service requirements for the ensuing fiscal year, and all other expenditures for the ensuing fiscal year, capital and otherwise, to be met from current revenues; and the proposed expenditures shall be shown by agencies and programs.

- (3) A comparative statement of the actual expenditures for the preceding fiscal year, and the estimated expenditures for the fiscal year currently ending and the ensuing fiscal year.
- (4) The sums recommended for appropriation on the basis of the proposed expenditures, which sums need not be itemized further than by agencies and programs.
- (5) The estimated revenues shown by estimated cash surplus, if any, for the fiscal year currently ending, proposed tax levies and other sources.
- (6) A comparative statement of the actual revenues for the preceding fiscal year, and the estimated revenues for the fiscal year currently ending and the ensuing year. The estimated revenues for the ensuing fiscal year shall be at last equal in amount of the proposed expenditures.

(b) The operating program shall present a complete financial plan for the operations of the county and its agencies and executive agencies in the ensuing three fiscal year, showing all funds and reserves. The operating program shall be used by the council for informational purposes and as a guide for the estimated costs of operating the county government for the ensuing three fiscal years and shall contain at least the following:

- (1) A simple, clear, general summary of the detailed contents of the operating program.
- (2) The proposed expenditures, including debt service requirements and all other expenditures for the ensuing three fiscal years, capital and otherwise; and the proposed expenditures, year by year, shall be shown by agencies and programs.
- (3) The estimated revenues shown by estimated cash surplus, if any, proposed tax levies and other sources for the ensuing three fiscal years.
- (4) Such other information as the council or mayor may request.

(c) The mayor's message shall explain the operating budget and capital budget both in fiscal terms and in terms of work to be done. It shall outline the proposed financial policies of the county for the ensuing fiscal year, describe the important features of the operating budget and capital budget and means of financing the budgets. It shall indicate any major changes in financial policies and in expenditures, appropriations and revenues as compared with the fiscal year currently ending, and shall set forth the reasons for the changes. As to the capital budget, the message shall include a list of pending and proposed capital improvements together with the mayor's comments on such list. It shall itemize and explain each pending capital improvement and each capital improvement proposed to be undertaken within the ensuing fiscal year, showing the estimated cost of each improvement and the pending or proposed method of financing it. The message shall also include such other supporting or explanatory material as the mayor deems desirable.

The mayor's budget message which accompanies the amendments to the operating budget and to the capital budget shall describe the changes in proposed expenditures and in revenue projections from the budgets which had been submitted on or before March 1, and shall describe the intervening changes in circumstances which justify the changes in the proposed expenditures and projected revenue. (Amended Gen. Elec. 1990)

Section 10-4. Operating Budget and Capital Budget: Notice and Hearing.

The council shall hold a public hearing on the operating budget and capital budget at any time after March 1, but prior to the first reading on the

budget bills. At this hearing all persons interested shall have an opportunity to be heard. At least one week before the hearing, the county council shall publish in not less than two newspapers of general circulation in the county, the general summaries of the operating budget and capital budget and a notice setting forth the time and place for public hearing thereon and for their consideration by the council. The council shall also allow public testimony at any meeting at which the operating budget or capital budget, or amendments thereto, are considered. (Amended Gen. Elec. 1990)

Section 10-5. Operating Budget: Council Action. After the public hearing, and after the submission of the amendments to the operating budget and to the capital budget, the county council may adopt the operating budget as amended with or without further amendments. First reading shall be after May 5. In amending, it may add new items or increase items in the operating budget. It may decrease or delete items, excepting appropriations required by law and appropriations for debt service. But in all cases the estimated revenues for the ensuing year shall be at least equal in amount to the proposed expenditures.

The council shall adopt the operating budget on or before the thirtieth day of June. If it fails to do so, the operating budget as submitted and as amended by the mayor shall be deemed adopted by the council as the operating budget for the ensuing fiscal year.

If the mayor disapproves of the bill adopting the operating budget or of any part thereof, the mayor shall return the bill or the portions vetoed with a written statement of objections to the clerk for further council action within ten calendar days of receipt of the bill.

The adopted operating budget shall be in effect on and after the first day of the fiscal year to which it applies. (Amended by Ordinance No. 57, approved 1974, further amended Gen. Elec. 1990)

Section 10-6. Capital Budget and Capital Program: Scope; Council Action.

- (a) The capital budget shall contain at least the following:
 - (1) A simple, clear, general summary of the detailed contents of the capital budget.
 - (2) The capital improvements pending or proposed to be undertaken within the ensuing fiscal year, together with the estimated cost of each improvement, the estimated operating cost, and the pending or proposed method of financing it.
 - (3) Capital expenditures to be financed from current revenues in the ensuing fiscal year.

(b) The capital program shall be used by the council for informational purposes and as a guide for the estimated costs of the proposed capital improvements of the county for the ensuing six fiscal years and shall contain at least the following:

- (1) A simple, clear, general summary of the detailed contents of the capital program.
- (2) The capital improvements pending or proposed for the ensuing six fiscal years, together with the estimated cost of each improvement and the proposed method of financing it.
- (3) Such other information as the council or mayor may request.

(c) After the public hearing on the capital budget, and after the submission of the amendments to the budget, the county council may adopt the capital budget as amended with or without further amendment. First reading shall be after May 5. In amending, the council shall request and consider,

but need not follow, the recommendations of the mayor as to the proposed amendment.

(d) The council shall adopt the capital budget on or before the thirtieth day of June. If it fails to do so, the amended capital budget submitted by the mayor shall be deemed adopted by the council as the capital budget for the ensuing fiscal year. The adopted capital budget shall be in effect on and after the first day of the fiscal year. (Amended by Ordinance No. 57, approved 1974, further amended Gen. Elec. 1980)

At any time during the fiscal year, the council, by ordinance adopted by the affirmative vote of at least two-thirds of the entire membership, may amend the capital budget for that year. In amending, the council shall request and consider, but need not follow, the recommendations of the mayor as to the proposed amendment. (Amended Gen. Elec. 1990)

Section 10-7. Budgets: Public Records. Three copies of the operating budget and the capital budget as adopted shall be certified by the mayor and the clerk of the county council. One of these copies shall be filed in the office of the mayor and one each in the offices of the director of finance and the director of planning. The operating budget and capital budget shall be made available to the county agencies and to interested persons, upon such conditions as the council may determine.

Section 10-8. Appropriations: Supplemental and Emergency. When during any fiscal year there are available any funds for appropriation, the mayor shall certify to the county council and the county council may amend or make supplemental appropriations for the year up to the amount of available revenues. Such appropriations may be made by ordinance effective immediately upon adoption.

To meet a public emergency affecting life, health or property, the council, may make emergency appropriations. Such appropriations may be made by ordinance and must be approved by all council members present or by two-thirds of the entire membership. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by ordinance authorize the issuance of emergency notes. These notes may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the first day of the fiscal year next succeeding that in which the emergency appropriation was made. The total of emergency appropriations in any fiscal year shall not exceed one-half of one percent of the total operating appropriations, excluding those for debt service made in the operating budget for that year.

Section 10-9. Appropriations: Reduction and Transfer. If at any time during the fiscal year it appears probable to the mayor that the revenues available will be insufficient to meet the amount appropriated, the mayor shall report to the county council without delay, indicating the estimated amount of the deficit. For that purpose the council may by ordinance reduce one or more appropriations; but no appropriation required for debt service may be reduced and no appropriation may be reduced by more than the amount of the unencumbered balance thereof or below any amount required by law to be appropriated.

The mayor may at any time during the fiscal year transfer part or all of any unencumbered appropriation balance between classifications of expenditures or programs within an agency or executive agency; and if at any time the mayor so requests in writing, the council, by resolution [effective] immediately upon adoption may transfer, part or all of any unencumbered appropriation balance from one agency or executive agency to another. But no transfer shall be made from appropriations for debt service or for estimated cash deficit; and no appropriation may be reduced below any amount required by law to be appropriated. The mayor shall notify the county council of any transfer of funds within an agency or an executive agency no later than

thirty days after authorizing such a transfer. (Ed. note: This section was amended at the Gen. Elec. 1990. One of the changes was replacement of the word "effective" with the word "reflective." It was apparently an inadvertent change which was corrected in this edition.)

Section 10-10. Lapse of Appropriations. General appropriations, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that the same has not been expended or encumbered. An appropriation for a capital expenditure that is not encumbered shall lapse at the end of two fiscal years following the fiscal year that the appropriation was made.

Section 10-11. Payments and Obligations Prohibited: Verifications; Penalties. No payment shall be authorized or made and no obligation incurred against the county except in accordance with appropriations duly made. No payment shall be made against any allotment or appropriation unless the director of finance first verifies that there is sufficient unencumbered balance in the allotment or appropriation and that sufficient funds therefrom are available to cover the claim concerned; nor shall any obligation be incurred against any allotment or appropriation unless the agency head first verifies that there is sufficient unencumbered balance in the allotment or appropriation and that sufficient funds therefrom will be available to meet the obligation concerned when it becomes due and payable. Every obligation incurred and every authorization of payment in violation of the provisions of this charter shall be void. Every payment made in violation of the provisions of this charter shall be illegal; and county officers who knowingly authorize or make such payment or any part thereof shall be jointly and severally liable to the county for the full amount so paid or received. If any county officer or employee knowingly authorizes or makes any payment or incurs any obligation in violation of the provisions of this charter or takes part therein, that action shall be cause for his or her removal.

Nothing contained in this section or other sections of this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds; nor shall it prevent the making, when permitted by law, of any contract or any lease providing for the payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made. But any contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year shall be made or approved by resolution. (This section was originally entitled, "Payments and Obligations Prohibited: Certifications; Penalties." The word "Certifications" was replaced by "Verifications" in 1980.)

Section 10-12. Special Funds. Upon recommendation of the mayor, the council may by ordinance abolish or establish such special funds as may be necessary for the proper and efficient segregation of fiscal operations of the county.

Section 10-13. Post-audit. The county council shall provide at least once every year for an independent audit of the accounts and other evidences of financial transactions of the county and of every county agency and executive agency. The audit shall be made by a certified public accountant or firm of certified public accountants, designated by the council, who have no personal interest, direct or indirect, in the fiscal affairs of the county or of any of its agencies or executive agencies. The audit shall include both financial accountability and adequacy of the financial and accounting system. If the state makes such an audit, the council may accept it as satisfying the requirements of this section.

Either the council or the mayor may at any time order an examination or audit of the accounts or program of any county agency or executive agency. Upon the death, resignation, removal or expiration of the term of any county

administrative officer, the director of finance shall cause an audit and investigation of the accounts maintained by the officer and the officer's agency or executive agency to be made and shall report the results thereof to the mayor and the council. In the case of the death, resignation or removal of the director of finance, the council may cause an audit to be made of the accounts of all agencies and executive agencies. If as a result of any such audit, an officer be found indebted to the county, the mayor shall proceed forthwith to collect the indebtedness.

Section 10-14. Centralized Purchasing.

(a) The department of finance shall be responsible for the procurement of all materials, supplies, equipment and services required by any agency of the county, except as otherwise provided by this charter or any law.

(b) There shall be a standardization committee composed of five members. The mayor shall appoint four members without necessity of council confirmation, each of whom shall be from a separate department. The fifth member shall be a representative of the department of finance who shall serve as chairperson of the committee. The committee shall classify all materials, supplies and equipment commonly used by the various agencies of the county and shall prepare and adopt standards and specifications for such material, supplies and equipment.

(c) All purchases and contracts for materials, supplies, equipment and services shall be made in accordance with Hawaii Revised Statutes and rules and regulations established by the state procurement policy office. Any such rule or regulation may be modified by the director of finance, in accordance with Chapter 91, HRS, provided that such modifications shall be consistent with the requirements of state law.

(d) The director of finance shall, from time to time, secure from all agencies estimates of their needs for articles of common use and shall, when practicable, consolidate requisitions in order to secure the benefits of quantity purchases, and may enter into cooperative buying arrangements with other public agencies.

(e) The director of finance may, by rules and regulations not inconsistent with state law, provide for:

- (1) Emergency purchases which might be required.
- (2) Petty cash funds or blanket purchase orders or both.
- (3) Non-competitive purchases and contracts.
- (4) Approval and signing procedures related to the issuance of purchase orders.
- (5) Negotiated sales of county property found unusable for public purposes and valued below \$250.00 without public auction.

(f) All county storerooms (other than departmental) shall be supervised and operated by the director of finance.

(g) The director of finance shall finance shall require such guarantees of performance by vendors as in the director of finance's opinion may be necessary or may be prescribed by ordinance. (This section added Gen. Elec. 1980 and amended Gen. Elec. 1994)

**ARTICLE XI
INITIATIVE AND REFERENDUM**

Section 11-1. The Powers of Initiative and Referendum.

(a) The power of voters to propose ordinances [except as provided in section 11-2] shall be the initiative power.

(b) The power of voters to approve or reject ordinances by election [except as provided in section 11-2] shall be the referendum power. (Ed. note: In preparing the 1990 edition, the editor changed the above cross-

references to make them consistent with the charter amendment approved in 1982 election that deleted the previous section 11-2.)

Section 11-2. Submission Requirements.

(a) Voters seeking to propose an ordinance by initiative shall submit an initiative petition addressed to the council and containing the full text of the proposed ordinance. The initiative petition shall be filed with the clerk of the council at least forty-eight hours prior to any regular council meeting.

(b) Voters seeking referendum on an ordinance shall submit a referendum petition addressed to the council, identifying the particular ordinance and requesting that it be either repealed or referred to the voters of the county.

(c) Each initiative petition and each referendum petition must be signed by qualified voters of the county equal in number to at least fifteen percent of the total number of persons who voted in the county for the office of mayor in the most recent second special election, or, if there had not been a second special election, in the last preceding general election. (Ed. Note: The original section 11-2, "Limitations to Powers," was deleted pursuant to an amendment proposed by the Hawaii County Taxpayers Association through a charter amendment petition approved at the 1982 Gen. Elec. This section, which was originally designated section 11-3, and all other subsequent sections, were renumbered accordingly. This subsection (c) was amended 2000 Charter Amend. 1)

(a) **Section 11-3. Petitioners' Committee.** For each initiative or referendum petition there shall be a petitioners' committee representing all the petitioners, which committee shall be composed of five members who shall be qualified voters of the county and signers of the petition. The committee shall be responsible for circulation of the petition and for assembling and filing the petition in proper form. The committee shall have the power to amend or withdraw the petition as provided in this charter. (Renumbered Gen. Elec. 1982)

Section 11-4. Initiative and Referendum Petitions: Forms and Sufficiency. Initiative and referendum petitions shall be governed by the rules regarding form and sufficiency set forth in this section, as well as by such other rules as the county council may impose by ordinance, consistent with the provisions and with the spirit and purpose of the charter.

(b) For immediate acceptance of petitions, the clerk of the council shall require that:

- (1) The petitions indicate by name and address, the five signers who constitute the petitioners' committee for that petition.
- (2) The petitions indicate the address, to which all notices for petitioners' committee are to be sent.
- (3) The signatures to petitions be filed on papers of uniform size and style and assembled as one instrument. Upon presentation, petitions which reasonably comply with this subsection (a) shall be accepted by the clerk without delay; petitions shall be rejected for non-compliance.
- (4) Electors signing such petition shall print their names, add their signatures, residence addresses, social security numbers and the dates of signing on said petition.

(c) For purposes of certification, any petition shall be found insufficient which:

- (1) Is signed by less than the required number of qualified voters of the county.
- (2) Proposes, or requests appeal of, an ordinance not subject to the powers of initiative or referendum.

(d) Signatures are invalid and petitions insufficient:

- (1) If signers are not given an opportunity to read the full text of the proposed ordinance under an initiative petition, or the designation and description of the ordinance in question under a referendum petition, and if the full text of a proposed ordinance or ordinance under question is not contained in or attached to each signature paper or set of signature papers of an initiative or referendum petition, respectively, throughout circulation.
- (2) If affidavits (executed by the circulators for each set of signature papers) are not attached to the papers at the time of filing of petition with the clerk of the council. Each affidavit shall attest to the effect that: a particular individual personally circulated an identifiable set of papers; each paper bears a stated number of signatures; each signature on a paper was affixed in the circulator's presence; each signature is the genuine signature of the person whose name it purports to be.

(e) Individual signatures may be withdrawn within fifteen days after the filing of an initiative or referendum petition with the clerk of the council by the filing of a written request therefor, by the individual, with the clerk of the council. (Renumbered Gen. Elec. 1982)

Section 11-5. Initiative and Referendum: Procedure after Filing.

(a) Within twenty days after the filing of an initiative or referendum petition, the clerk of the council shall complete a certificate as to the sufficiency of the petition.

As soon as a certificate is completed, the clerk shall notify the petitioners' committee of the contents of the certificate. If a petition is certified sufficient, the clerk shall present his certificate to the county council at its next meeting. If the clerk certifies a petition insufficient, the certificate shall show the particulars wherein the petition is defective. A majority of the petitioners' committee may elect to amend a petition certified insufficient and must so notify the clerk, but if a majority does not elect to amend a petition, the clerk shall present the certificate to the county council at its next meeting. A petition is approved for consideration through council action upon the clerk's certificate of sufficiency.

(b) If a majority of the petitioners' committee elects to amend its petition, then within ten days after receipt of the clerk's certificate, the committee shall file a supplementary petition upon additional papers. The supplementary petition shall be governed by the same requirements as for an original petition. Within five days after the filing of a supplemental petition, the clerk shall complete a second certificate as to the sufficiency of the original petition as amended by the supplementary petition. Thereafter, the procedural requirements for the petition as amended shall be the same as that for the original petition as provided in subsection (a), this section.

(c) A majority of the petitioners' committee may request the county council to review the clerk's certificate, at or before the meeting at which the clerk presents the certificate to the council. The council shall review the latest clerk's certificate, upon the committee's request, and shall approve or reject the certificate or may substitute its own determination of sufficiency of the petition by resolution. The review actions of the council shall be final but shall not preclude the filing of a new petition for the same purposes. (Renumbered Gen. Elec. 1982)

Section 11-6. County Council Action on Petitions.

(a) The county council shall proceed immediately to consider an initiative or referendum petition which has been determined sufficient in accordance with the provisions of this article. If an initiative petition is concerned, the ordinance it proposes shall at once be introduced subject to the procedures required for ordinances under sections [3-8 and 3-10] of this charter; however, not more than sixty days shall elapse between the time of first reading of the initiative proposal as a bill and completion of consideration to adopt, amend, or reject the same. If a referendum petition is concerned, the ordinance to which that petition is directed shall be reconsidered by the council; and not later than thirty days after the date on which the petition was determined sufficient, the council shall by resolution repeal or sustain the ordinance. (Renumbered Gen. Elec. 1982. Ed. note: The 1990 amendments to Article III, Chapter 3, resulted in the renumbering of the above-referenced sections. In editing the 1990 amendments, the cross-references should have been changed to "sections 3-8 and 3-10." The change is contained in this edition.)

(b) If the council fails to adopt an initiative proposal or adopts a proposal with an amendment unfavorable to a majority of the petitioners' committee, or if the council fails to repeal an ordinance reconsidered pursuant to a referendum petition, it shall submit the originally proposed initiative ordinance or refer the reconsidered ordinance concerned to the voters of the county at the next general election. The ballot for such measures shall contain an objective summary of the substance of the measure and shall have below the ballot title designated spaces in which to mark the ballot FOR or AGAINST the measure. (Renumbered Gen. Elec. 1982)

Section 11-7. Withdrawal of Petition. A petitioners' committee may withdraw a petition at any time, but not later than the thirtieth day immediately preceding the day scheduled for a vote in the county on a measure concerned. A petitioners' committee shall be requested to withdraw its petition and the committee must comply, if the aims of the petition are resolved by intermediate council action to the satisfaction of the committee such that the initiative proposal is adopted as an ordinance, or that the ordinance reconsidered by the referendum petition is repealed. A written request for petition withdrawal must be signed by four of the five members of the petitioners' committee and filed with the council clerk. The filing of a withdrawal immediately cancels the petition and ceases all further action for the accommodation of the petition by the county. (Renumbered Gen. Elec. 1982)

Section 11-8. Results of Election. If a majority of the voters voting upon a proposed initiative ordinance shall vote in favor of it, the ordinance involved shall thereupon be an ordinance of the county. A referred ordinance which is not approved by a majority of the voters on it shall thereupon be repealed. (Renumbered Gen. Elec. 1982)

ARTICLE XII
REMOVAL OF ELECTED OFFICERS
CHAPTER 1
RECALL

(Ed. note: The original Article XII, "Special Assessment Improvements," consisting of one section, was repealed at the 1980 Gen. Elec. and replaced with the following provisions on recall.)

Section 12-1.1. Recall Procedure. In addition to impeachment procedures, any elective officer may be removed from office by the voters of the county. The procedure to effect such removal shall be in accordance with this article.

A petition demanding that the question of removing such official be submitted to the voters shall be addressed to the council and filed with the county clerk.

(a) A petition demanding recall of an official elected at-large, or by voters of the entire county, as the case may be, shall be signed by qualified voters equal to or greater than twenty-five percent of the total number of persons who registered in the last general election.

(b) A petition demanding recall of a district councilmember shall be signed by qualified voters equal to or greater than twenty-five percent of the total number of persons who registered in the district in the last general election.

(c) The term "qualified voter" means a person who is registered to vote in the county on the day that the clerk begins the examination to determine the sufficiency of the signatures on the petition. (Added Gen. Elec. 1980, amended 1990 Gen. Elec.)

Section 12-1.2. Petitions. Petition papers shall be procured only from the county clerk, who shall keep a sufficient number of such blank petition papers on file for distribution as herein provided. Prior to the issuance of such petition papers, an affidavit shall be made by one or more voters and filed with the clerk, stating the name and office of the officer sought to be removed. (Added Gen. Elec. 1980)

Section 12-1.3. Signatures. Signers of a recall petition shall print their names and their signature, their residence or mailing address, their social security number and the date of signing on said petition. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper was made in the circulator's presence and is believed to be the genuine signature of the person whose name it purports to be, and that each signer understood the nature of the recall petition. (Added Gen. Elec. 1980)

Section 12-1.4. Filing and Certification. All papers comprising a recall petition shall be assembled and filed with the county clerk as one instrument within thirty (30) days after the filing, with the clerk, of the affidavit stating the name and office of the officer sought to be removed. Within thirty (30) working days from the filing of such petition, the clerk shall determine if the petition contains sufficient signatures and prepare a certificate showing the result of the examination. If the clerk shall certify that the petition is insufficient, the clerk shall set forth in the certificate the particulars in which the petition is defective, and shall return a copy of the certificate to the person designated in such petition to receive it. ((Added Gen. Elec. 1980, amended 1990 Gen. Elec.)

Section 12-1.5. Supplemental Petitions. In the event the initial petition contained insufficient signatures, such recall petition may be supported by the supplemental signatures of voters signed in the manner required in section 12-1.3 of this article appended to petitions issued, signed, and filed as required for the original petition at any time within ten days after the date of the certificate of insufficiency by the clerk. The clerk shall, within five working days after such supplemental petitions and filed, make a like examination of them, and if the certificate shall show the same to be still insufficient, the clerk shall return it in the manner described in section 12-1.4 of this article to the person [designated] in such petition to receive the same, and no new petition for the recall of the officer sought to be removed shall be filed within one year thereafter. (Added Gen. Elec. 1980, amended Gen. Elec. 1990. Ed. note: In 1990 edition, the word "designed" inadvertently replaced "designated"; it was reinserted in this edition.)

Section 12-1.6. Recall Election. If a recall petition or supplemental petition shall be certified by the clerk to be sufficient, the clerk shall at once submit the same with the certificate to the council and shall notify the officer sought to be recalled of such action. If the official whose removal

is sought does not resign within ten (10) days after such notice, the council shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than sixty (60) nor more than ninety (90) days after the petition has been presented to the council, or at the same time as any other special election held within such period, the council shall call a special recall election to be held within the time aforesaid. If less than fifty percent of the total number of persons who registered in the last general election shall vote at such election to recall an official elected at-large, or by voters of the entire county, as the case may be, or in the case of a recall of a district councilmember, if less than fifty percent of the total number of persons who registered in the district in the last general election shall vote at such recall election, the officer sought to be recalled shall not be deemed recalled. (Added Gen. Elec. 1980)

Section 12-1.7. Ballots. The ballots at such recall election shall, with respect to each person whose removal is sought, submit the question: "Shall (name of person) be removed from the office of (name of office) by recall?" If a majority of the electors qualified to vote on the question at a recall election vote "Yes", the elected officer shall be deemed recalled and removed from office, subject to the provisions of Section 12-1.6 of this article. (Added Gen. Elec. 1980)

Section 12-1.8. Succeeding Officer. The incumbent, if not recalled in such election, shall continue in office for the remainder of the unexpired term subject to the recall as before, except as provided in this charter. If recalled in the recall election the incumbent shall be deemed removed from office upon the announcement of the official canvass of that election, and the office shall be filled as provided by this charter for the filling of vacancies of elected officials. The successor of any persons so removed shall hold office during the unexpired term of the person removed. (Added Gen. Elec. 1980)

Section 12-1.9. Immunity to Recall. The question of the removal of any officer shall not be submitted to the voters until such person has served six (6) months of the term during which the officer is sought to be recalled, nor, in the case of an officer retained in a recall election, until one year after that election. (Added Gen. Elec. 1980)

CHAPTER 2 IMPEACHMENT

Section 12-2.1. Impeachment of Elected Officers. Any elected officer or officer appointed to a vacancy in any elected office may be impeached for malfeasance, misfeasance, nonfeasance, or maladministration in office. The circuit court shall be a court of impeachment for the trial of any such officer who may be charged on any of the foregoing grounds. The charges shall be set forth in detail in writing in a verified petition for impeachment signed not less than one hundred (100) qualified electors of the county.

The court shall sit without a jury and shall proceed according to the form required for the trial of all civil cases.

If the court sustains the charge, the officer shall be deemed removed from office and the office declared vacant under this charter.

ARTICLE XIII GENERAL PROVISIONS

Section 13-1. Definitions. As used in this charter:

(a) "Agency" means any office, department, board, commission or other governmental unit of the county.

(b) "Executive Agency" means any agency or department of the executive branch of the county government.

(c) "Employee" means any person, except an officer, employed by the county or any agency thereof but the term shall not include an independent contractor.

(d) "Officer" includes the following:

- (1) Mayor and members of the council.
- (2) Any person elected or appointed as administrative head of any agency of the County or appointed as a member of any board or commission provided for in this charter.
- (3) Any person appointed by a board or commission as the administrative head of any agency of the county.
- (4) Deputy, assistant or division chief appointed by the administrative head of any agency of the county.
- (5) Assistant or deputies of the corporation counsel and prosecuting attorney.

(e) "State" means the State of Hawaii.

(f) "Vacancy" shall have the following meaning:

Any elective office shall become vacant on the happening of any one of the following events before expiration of the term:

- (1) Death.
- (2) Resignation.
- (3) Upon the determination by the county clerk that the officer was not a duly qualified elector of the county, and, if required, not a duly qualified elector of the district of which the officer was elected immediately preceding the election or appointment.
- (4) Ceasing to be a resident voter of the county as determined by the county clerk and in the case of an officer elected to a seat requiring residency in a district, ceasing to be a resident voter of that district as determined by the county clerk.
- (5) Absence from the county, unless on county authorized business, for a period of three consecutive months, without good cause.
- (6) Removal by recall as provided by this charter.
- (7) Removal by impeachment proceedings for malfeasance, misfeasance, nonfeasance, or maladministration in office as provided by this charter.
- (8) Upon the determination by three impartial, licensed physicians selected by the council that the officer is mentally or physically infirm or disabled and will be unable to discharge the officer's duties for the remainder of the term. Such action shall be initiated by a majority vote of the entire council.
- (9) Upon filing nomination papers for another elective office if the term of the office sought begins before the end of the term of the office held.
- (10) Upon the conviction of any felony in any jurisdiction.

If any of the above events occurs after the election, but prior to the commencement of the term, office is vacant at the time the term commences.

(Ed note: The original (e) "District," was deleted at the 1980 Gen. Elec. and (f) "State" was redesignated (e). Also in 1980, the definition for "vacancy" was added; it was amended at the 1996 Gen. Elec.)

Section 13-2. Titles, Subtitles, Personal Pronouns; Constructions.

Titles and subtitles shall not be used for purposes of construing this charter. When any personal pronoun appears in this charter, it shall be construed to mean either sex.

Section 13-3. Appointments. No appointing authority shall appoint any person to any office or position which is exempt from the civil service laws until satisfied by proper investigation that the person to be appointed is fully qualified by experience and ability to perform the duties of that office or position. (Amended Gen. Elec. 1990 and 2000, Charter Amend. 2, 3 and 7. Section 13 of the full text of Charter Amend. 7 stated that if Charter Amend. 2, 3 and 7 were approved by the voters, "they shall supercede any conflicting language in this amendment." Charter Amend. 7 deleted all the language following the first sentence and transferred the next three sentences to provisions relating to the finance and planning department head qualifications. Charter Amend. 2 and 3 deleted the remaining sentences of this section.)

Section 13-4. Boards and Commissions. Except as otherwise provided in this charter, all boards and commissions specifically established by this charter shall be governed by the following provisions:

(a) The members shall serve staggered terms of five years. Upon the initial appointment of the members of a commission consisting of five members, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Upon the initial appointment of the members of a commission consisting of seven members, one shall be appointed for a term of one year, one for a term of two years, two for a term of three years, two for a term of four years, and one for a term of five years. Upon the initial appointment of a commission consisting of nine members, one shall be appointed to a term of one year, two for a term of two years, two for a term of three years, two for a term of four years, and two for a term of five years.

(b) The members shall be appointed by the mayor, and confirmed by the council, and may be removed upon recommendation by the mayor and the approval of the council.

(c) No member shall be eligible for a second appointment to the same board or commission prior to the expiration of two years, provided that members of any board or commission initially appointed for a term of one year and two years shall be eligible to succeed themselves for an additional term.

(d) No member whose term has expired shall continue to serve on such board or commission, except that if no successor has been appointed and confirmed, the member shall continue to serve for ninety days or until a successor is appointed and confirmed, whichever comes first. (Amended Gen. Elec. 2000 Charter Amend. 5)

(e) Any vacancy occurring in any board or commission shall be filled for the unexpired term.

(f) Not more than a bare majority of the members shall belong to the same political party.

(g) Members shall receive no compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties. Necessary expenses may be paid in advance as per diem allowance which shall be established by ordinance. Members of boards and commissions who do not receive compensation from their employers during the time they are serving on boards and commissions shall be reimbursed by the county for actual work hours lost at the straight time rate of pay of such members in their regular employment but in no case shall such reimbursement exceed five times the state minimum wage hour rate.

(h) A chairperson shall be elected from its membership annually.

(i) The affirmative vote of a majority of the entire membership to which a board or commission is entitled shall be necessary to make any action valid; except that in the case of a board or commission which has only

advisory functions, the affirmative vote of a majority of those present shall be sufficient to make any action valid.

(j) Each board and commission shall have the power to establish its rules of procedure necessary for the conduct of its business, which rules shall contain the time and place of all regular meetings, and which shall specify that a quorum shall be a majority of the members to which the board or commission is entitled.

(k) Notwithstanding any other provision in this charter, no person shall, by reason of occupation alone, be barred from serving as a member of any board or commission.

(l) The council shall act to confirm or reject any appointment made to a board or commission by the mayor within forty-five days after receiving notice of the appointment from the mayor. If the council does not confirm or reject any such appointment within forty-five days, the appointee shall be deemed to have been confirmed.

(m) The redrawing of council district boundaries during a commission member's term shall not affect a member's eligibility to represent the district to which the member was appointed.

(This section amended 1990 Gen. Elec.; subsection (m) added 2000 Charter Amend. 16)

Section 13-5. Oaths of Office. Before entering upon the duties of their office, each officer elected or appointed shall subscribe to the oath or affirmation before some person duly qualified to administer oaths:

"I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States of America, and the Constitution of the State of Hawaii, and that I will faithfully discharge my duties as
to the best of my ability."

Section 13-6. Bonding Officers. The director of finance and such other county officers or employees as the council may require shall furnish bonds in the amount and with the surety prescribed by the council by ordinance. The premiums on such bonds shall be paid by the county.

Section 13-7. Rules and Regulations. Except as otherwise provided in this charter, all rules and regulations having the force and effect of law adopted by any board, commission or administrative head of a department shall be approved by the mayor before going into effect. The provisions of this section shall be applicable to service rates or fees, license fees and other charges. (Amended 1990 Gen. Elec.)

Section 13-8. Term of Office of Department Heads. The terms of office of department heads, deputies and assistants shall be co-terminous with that of the appointing authority; provided, that where a successor has not been appointed a department head, deputy or assistant, as the case may be, shall continue in office pending such appointment. The council shall confirm or deny confirmation within sixty days of the appointment of any department head. If the council does not act within sixty days, the department head shall be deemed to be confirmed. The department head shall take office upon appointment but shall not continue in office if the council denies confirmation. (Amended 1990 Gen. Elec.)

Section 13-9. Non-Civil Service Status and Classification. From and after the full effective date of this charter, no employees or officers of the county who are exempt from the civil service laws shall have their positions included in a position classification plan established under the civil service laws.

Section 13-10. Prohibitions. No person who seeks appointment or promotion with respect to any county position or appointive county administrative office shall directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection

with their test, appointment, proposed appointment promotion or proposed promotion.

From and after the effective date of this charter no person who has the power of appointment under this charter or ordinance enacted pursuant thereto shall appoint, employ, promote or advance an individual who is a relative of the appointing authority to any office or position under their supervision; provided, that the provision of this paragraph shall not be construed to prohibit the appointment of a relative whose name appears on the eligibility list submitted by the director of civil service in accordance with the civil service laws and the rules and regulations promulgated pursuant thereto.

The word "relative" as used in this section shall mean an individual who is related to the appointing authority as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, step-father, step-mother, step-son, step-brother, step-daughter, step-sister, half-brother, or half-sister.

Section 13-11. Penalties. The council shall by ordinance provide for the punishment of violations of any provisions of this charter and may provide for punishment of violations of ordinances and regulations, but no penalty shall exceed the amount of one thousand dollars fine or one year's imprisonment, or both. Prosecution in such case shall be as provided by law for the prosecution of misdemeanors.

Section 13-12. Acceptance of Gifts or Donations. The council, on behalf of the county, may accept gifts of donations of money, securities or other personal property or of real estate or any interest in real estate.

Section 13-13. Contracts. The county may enter into contracts with private parties, other counties, the state or the United States for the performance of any function or activity which the county is authorized to perform. All written contracts to which the county is a party shall:

- (a) Be approved by the corporation counsel as to form and legality.
- (b) Be authorized by the council by resolution if legislative action is necessary to implement the contract.
- (c) Except as otherwise provided, be signed by the mayor.
- (d) Be approved by the director of finance as to the availability of funds in the amounts and for the purposes set forth therein if they involve financial obligations of the county. Such contracts shall not extend beyond the term for which an appropriation to finance such obligations has been made, except as otherwise provided by this charter. This provision shall not apply to obligations for the procurement of utility services.

Section 13-14. Facsimile Signatures. Whenever any person is required to sign on behalf of the county negotiable instruments or multiple bonds, the signature may be a facsimile.

Section 13-15. Title to Property. Except as otherwise provided by law, title to all property acquired by any agency of the county shall be vested in the county.

Section 13-16. Payment of Moneys Out of the County Treasury. All disbursements of county-controlled funds shall be made pursuant to procedures prescribed by the director of finance.

Section 13-17. Expenses. Subject to procedures prescribed by the director of finance and approved by the mayor, all officers and employees of the county shall be entitled to travel or other necessary expenses in the performance of their official duties as provided by ordinance.

Section 13-18. Claims. No action shall be maintained for the recovery of damages for any injury to persons or property by reason of negligence or other act of any official or employee of the county unless a written statement stating fully when, where and how the injuries occurred, the apparent extent thereof and the tentative amount claimed therefor shall have

been filed with the county clerk within two years after the date the injury was sustained.

Section 13-19. Annual Reports. Not later than ninety (90) days after the close of the fiscal year, each agency of the county shall make an annual written report of its activities to the mayor in such form and under such rules as the mayor may prescribe.

Not later than one hundred twenty (120) days after the close of the fiscal year, the mayor shall publish an annual report concerning the activities of all agencies of the county. A copy of such report shall be filed in the office of the county clerk.

Section 13-20. Records and Meetings Open to the Public.

(a) All books, minutes and records of every agency of the county shall be open to the inspection of any person at any time during business hours, except as otherwise provided by law. Certified copies or extracts from such books and records shall be given by the officer who has custody of same to any person requesting such copies and extracts and paying or tendering a reasonable fee to be fixed by the council.

(b) All meetings of the council, boards and commissions shall be held in the council meeting room or other public places and no such bodies shall take any official action except at a meeting open to the public. Where personal matters affecting the privacy of an individual are to be considered, the council, board or commission may, at the request of the individual involved, consider such matters in closed session; however, any official action resulting therefrom shall be acted upon in an open meeting. Boards and commissions that are empowered to give examinations to determine the capabilities of individuals shall be excepted from the provisions of this section when technical examinations and questionnaires are being drafted by such bodies.

The term "official action" as used in this section means a collective decision made by a majority of the members of the council, board or commission, or an actual vote by a majority of the members of the council, board or commission, when sitting as a body or an entity, upon any matter before the council, board or commission.

(c) The time and place of all regular meetings of the council, board or commission shall be provided in the rules adopted for the conduct of its business. Except as otherwise provided in this charter, a special meeting may be called by the presiding officer of the council, board or commission when the date, time and place of such special meeting are announced prior to adjournment of a regular meeting otherwise a special meeting can be called only upon the publication of a notice of such meeting in at least two daily newspaper of general circulation in this county at least twenty-four (24) hours in advance of such meeting. If the requirement with respect to publication of notice cannot be met because of insufficient time, the meeting notice shall be made by broadcasting a minimum of three announcements in the English language over FCC licensed public radio stations in this county or television stations with local audience. Such announcements shall be broadcast at least twenty-four (24) hours in advance of such meeting. To assure the widest possible coverage, the meeting notice shall be released to radio stations in this county and the announcement shall be programmed to be heard between the hours of 7:00 A.M. to 5:00 P.M. In addition to the above requirements, notice of such special meeting shall be conspicuously posted on the bulletin board of the Hawaii County Building. A brief resume of the principal business to be taken up at such meeting shall be stated in the posted notice as well as in the notice released to the news media.

(d) Business conducted by the council, board or commission during a meeting which does not conform to the provisions of this section shall be null and void.

(e) News Gatherer's Sources, Privileged. No legislative or administrative body, or any other county body having the power to issue subpoenas shall adjudge in contempt any publisher, editor or reporter, who is or was connected with or employed by a newspaper, press association, wire service or a radio or television station, for refusing to disclose, in any county action, hearing, investigation, inquest, or inquiry, the source of any information procured while connected or employed by the newspaper, press association, wire service, or station for publication in a newspaper or for news or news commentary purposes on radio or television. (Subsection (e) was added by Ordinance No. 58, effective Nov. 26, 1974. Subsection (c) amended Gen. Elec. 1990)

Section 13-21. Cooperation with Other Agencies. In the performance of its functions, each agency of the county shall cooperate with private agencies and with agencies of the governments of the United States, the state and other states with any of their political subdivisions having similar functions.

Section 13-22. Coordination of Work. The mayor shall devise a practical and working basis for the cooperation and coordination of work by the various agencies to eliminate duplication and overlapping of functions, and such agencies shall, so far as practicable, cooperate with each other in the use of employees, land, building, quarters, facilities and equipment. The head of any agency may empower or require an employee of another agency, subject to the consent of the head of such other agency, to perform any duty which might be required of the employees of that agency. Whenever in this charter power is vested in an agency to inspect examine or secure data or information or to procure assistance from any other agency, a duty is hereby imposed upon the agency upon which demand is made to render such power effective.

Section 13-23. Declaration of Emergencies. The mayor may declare emergencies when the peace, life, property, health, safety or morals of the community are endangered, but failure or refusal to make such a declaration shall not preclude the council from finding that an emergency exists.

Section 13-24. Waiver of Charter Provisions. If any provision of this charter jeopardizes the receipt by the county of any federal grant-in-aid or other federal allotment of money, such provision, may, insofar as such fund is jeopardized, be waived by the council upon recommendation of the mayor. Waiver shall be accomplished by ordinance adopted as prescribed in Section 3-11 except that duly advertised public hearing shall be held between first and second readings. Such waiver shall continue in effect only for the period of time required by the specific grant-in-aid or allotment.

Section 13-25. Separability. If any provision of this charter is held unconstitutional or invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter or of any of its provisions to any person or circumstance is held unconstitutional or invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 13-26. Public Defender. The office of public defender shall be established by ordinance of the council when there is no other private or public agency which is adequately performing this function.

Section 13-27. County Election.

(a) No person shall be a candidate for more than one elective office in the same election. If no person is elected to a county office, the county council shall appoint a person to fill such office. County elections shall be conducted in accordance with the election laws of the state insofar as applicable.

(b) All county elective officers--mayor, council members and prosecuting attorney-- shall be elected in nonpartisan special elections.

Such special elections shall be held with the primary and general elections of the applicable year.

(c) First special election. The first special election shall be held with the regularly scheduled primary election. Any candidate for mayor, prosecuting attorney or council receiving a majority of all votes validly cast for candidates for that office, excluding blank and spoiled ballots, shall be deemed elected. If there is only one candidate for the office, that candidate shall be deemed elected regardless of the number of votes received.

(d) Second special election. The second special election shall be held with the regularly scheduled general election. Unless a candidate has been elected in the first special election, the two candidates receiving the highest number of votes for the office in question in the first special election shall be placed on the ballot for the second special election. At the second special election the candidate receiving the highest number of votes for each respective office shall be deemed elected. (Subsection (a) amended; subsections (b), (c) and (d) added 2000 Charter Amend. 1)

Section 13-28. Compensation; Salary Commission.

(a) The salary of all county elected officials and appointed directors and deputy directors of departments and executive agencies shall be established by a salary commission which shall consist of nine members appointed by the mayor with the approval of the council, in the manner prescribed in section 13-4(b). The members may be removed in the manner prescribed in section 13-4(b).

(b) One member shall be a resident of each council district. In addition, the civil service director and deputy civil service director shall serve as ex-officio members of the commission in an advisory capacity.

(c) The commission shall establish its rules of procedure, which shall provide that it meet at least annually, and adopt rules and regulations having the force and effect of law.

(d) The commission shall review and compensate all county elected officials and appointed directors and deputy directors so that their total salaries and benefits have a reasonable relationship to compensation in the public and private sectors. The salary commission shall consult with those boards and commissions which have appointing authority for department heads.

(Ed note: Ord. 56, approved Gen. Elec. 1974, repealed the original section 3-4 and replaced it with this section creating the commission. This section was amended and moved here in Gen. Elec. 1990. This section was further amended 2000 Charter Amend. 10)

**ARTICLE XIV
CODE OF ETHICS**

Section 14-1. Enactment and Policy.

(a) The council shall adopt by ordinance a code of ethics which shall provide as a minimum standard the provisions of this article. More stringent provisions may be enacted.

(b) Elected and appointed officers and employees shall demonstrate the highest standard of ethical conduct so that the public may have trust and confidence in the integrity of government. (Subsection (b) added 2000 Charter Amend. 15)

Section 14-2. Standards. It shall constitute a conflict of interest for employees or officers of the county to:

(a) Solicit or accept gifts, loans, gratuities, favors, promises or services with the understanding that the same may influence the employees or officers in the proper discharge of their official duties.

(b) Use their official position to secure special privileges, consideration, treatment or exemption to themselves or any person beyond that which is available to every other person.

(c) Engage in any business, transaction or activity or have a financial interest, direct or indirect, which might reasonably tend to be incompatible with the proper discharge of their official duties or to impair their independence of judgment in the performance of their official duties.

(d) Receive any compensation for their services as an officer or employee of the county from any other source other than the county, except as otherwise provided by this charter or by law.

(e) Appear in behalf of private interests for compensation before any agency of the county other than a court of law, nor represent private interests in any action or proceeding against the interest of the county in any litigation to which the county is a party. An officer serving the county without compensation, however, may appear for compensation in behalf of private interests before county agencies other than the one on which the officer serves and other than those agencies that have the power to review the actions of the agency on which the officer serves or to act on the same subject matter as the agency on which the officer serves.

(f) Accept a retainer, compensation or election campaign contribution that is contingent upon action by a county agency.

Section 14-3. Disclosure of Interest. It shall be incumbent upon all employees or officers of the county to:

(a) Make full disclosure in writing to the appointing authority or to the council in the case of an elective officer, the possession or acquisition of any interests, financial or otherwise as might reasonably tend to create a conflict with the public interest. Any member of the council who knows of a personal interest, direct or indirect, in any action proposed or pending before the council shall disclose such interest prior to the taking of any vote thereon.

(b) File a copy of such disclosure with the county clerk which shall become a matter of public record.

Section 14-4. Conduct of Employees. Officers and employees of the county while discharging their duties and dealing with the public shall adhere to the following precepts:

(a) All public property and equipment are to be treated as a public trust and are not to be used in a proprietary manner or for the personal purposes without proper consent.

(b) No person in a supervisory capacity shall engage in personal or business relationships with subordinates which might intimidate said subordinates in the discharge of their official duties.

(c) All persons shall be treated in a courteous, fair and impartial manner.

Section 14-5. Board of Ethics. There shall be a board of ethics appointed by the mayor with the approval of the council. It shall consist of five members who shall be residents of the county. Each shall serve for a term of five years. Upon the initial appointment of members pursuant to this charter, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years and one for a term of five years. The committee shall establish its rules of procedure. Without limitation of its functions, the committee shall:

(a) Interpret the code of ethics for both county officials and the public and on its own may initiate and render opinions with respect thereto.

(b) Render advisory opinions to county officers and employees with respect to the code of ethics pursuant to written requests by officers and employees.

(c) Receive and initiate complaints of violations of the code of ethics and transmit such complaints to the council or the appropriate appointing authority, along with any pertinent advisory opinions thereto.

(d) Hold hearings or conduct investigation concerning application of the code of ethics and make public such violations of the code that come to its attention.

(e) Publish advisory opinions with such deletions as may be necessary to prevent disclosure of identity of persons involved where such opinions are rendered pursuant to subsection (b) above.

(f) Propose revisions to the code of ethics where not inconsistent with this charter.

Section 14-6. Penalties. The failure to comply with the provisions of sections 14-2 to 14-4, inclusive, shall constitute a cause for suspension, removal from office or employment, or such other penalty as the council may prescribe by ordinance. Nothing herein shall preclude any other remedy available against the officer or employee of the county as provided by law.

ARTICLE XV

CHARTER AMENDMENT OR REVISION

Section 15-1. Initiation of Amendments or Revisions. Amendments or revisions of this charter may be initiated only in the following manner:

(a) By ordinance of the council adopted after three readings on separate days and passed by the affirmative vote of two-thirds of the entire membership.

(b) By petition presented to the council, signed by qualified electors equal in number to at least twenty percent of the registered voters for the last preceding general election, setting forth the proposed amendments or revisions. Such petition shall designate and authorize not less than three nor more than five of the signers thereto to approve any alteration or change in the form or language or any restatement of the text of the proposed amendments or revisions which may be made by the corporation counsel.

Electors signing such petition shall print their names, add their signatures, residence addresses, social security numbers and the dates of signing on said petition. Signatures may be on separate sheets but each sheet shall have appended to it the affidavit of some person that to the best of the affiant's knowledge and belief the persons whose signatures appear on the sheet are registered electors of the county, that they signed with knowledge of the contents of the petition and that their residences are correctly given.

Upon filing of such petition with the council, the county clerks shall examine the same to see whether it contains a sufficient number of apparently genuine signatures of registered voters. The clerk may question the genuineness of any signatures or signatures appearing on the petition and if the clerk finds that any such signature or signatures are not genuine, the clerk shall disregard them in determining whether the petition contains a sufficient number of signatures. The clerk shall eliminate any sheet of the petition which is not accompanied by the required affidavit. The invalidity of any sheet shall not affect the validity of the petition if a sufficient number of signatures remains after eliminating such invalid sheet. The clerk shall complete the examination of the petition within twenty days.

Section 15-2. Elections to be Called. Upon adoption of an ordinance proposing amendments or revisions of this charter, or upon the determination by the clerk that a petition for proposed amendments or revisions of this charter contains the required number of signatures, the council shall by resolution provide that the proposed amendments or revisions be submitted to the electors of the county for approval at the next general election. Any

such resolution shall provide for the publication of the full text of the proposed amendments or revisions in at least two daily newspapers of general circulation in the county at least forty-five (45) days prior to submission to the electors of the county. (Amended 1990 Gen. Elec.)

Section 15-3. Mandatory Charter Reviews. The charter shall be reviewed in 1989 and every tenth year thereafter. Not later than the fifteenth day of January of the charter review year, the mayor with the confirmation of the council, shall appoint a charter commission composed of eleven members to study and review the operation of the government of the county under this charter. Commission members, no more than a majority of whom shall belong to the same political party, shall be representative of the various geographical areas of Puna, Ka'u, Kona, Kohala, Hamakua, and Hilo. The council shall appropriate funds to enable the commission to carry out its duties, including the hiring of necessary staff.

The commission shall hold at least one public hearing in each of the geographical areas. The commission may propose amendments to the existing charter or a draft of a new charter which shall be submitted to the county clerk. Upon receipt of the amendments or charter in the form as proposed by the commission, the county clerk shall provide for the submission of such amendments or charter to the electors of the county at either a special election as determined by the commission or at the first general election following the charter review year. The commission shall prepare the language of the question to be submitted to the voters for each of the amendments it proposes.

The commission shall publish not less than forty-five (45) days before any election, at least once in at least two daily newspapers of general circulation within the county, a brief digest of the amendments or charter and the purpose thereof and a notice to the electorate that copies of the amendments or charter are available at the office of the county clerk.

Members of the commission shall hold office until the amendments or charter is ratified or rejected.

If the majority of the voters voting upon a charter amendment votes in favor of it or a new charter, if a new charter is proposed, the amendment or new charter shall become effective at the time fixed in the amendment or charter. (Amended Gen. Elec. 1980 and 1990)

ARTICLE XVI

TRANSITIONAL PROVISIONS

(Ed. note: Three original sections, 16-5, "Temporary Budget and Capital Program," 16-12, "Salaries," and 16-13, "Existing County Seal," were deleted Gen. Elec. 1980.)

Section 16-1. Schedule. After its ratification by the electorate, this charter, as amended, shall take full effect on January 1, 1980. (Ed. note: This section was amended as part of the 1980 charter review but not subsequently. All 1990 amendments to the charter took effect upon their approval in the 1990 Gen. Elec. See Revision History in this edition for the three effective dates of the sixteen 2000 amendments.)

Section 16-2. Initial Elections Under the Charter. The first county primary and general elections under this charter shall be held in the year 1980. (Amended Gen. Elec. 1980)

Section 16-3. Existing Laws and Conflicting Laws. All laws, ordinances, resolutions, rules and regulations in force at the time this charter takes full effect and not in conflict or inconsistent with this charter, are hereby continued in force until repealed, amended or superseded by proper authority. All laws relating to or affecting this county or its agencies, officers or employees, and all county ordinances, resolutions,

orders and regulations which are in force when this charter takes full effect are repealed to the extent that they are inconsistent with or interfere with the effective operation of this charter or ordinances or resolutions adopted by the county council under the provisions of this charter.

Section 16-4. Status of Agencies and Transfer of Functions. When this charter takes full effect:

(a) All offices, departments, boards and commissions, the status of which are not specifically changed or abolished by this charter, are hereby recognized, continued and established and shall have such powers, duties and functions as provided by law or ordinance. Members of the various boards and commissions, excluding the Hawaii redevelopment agency, holding office at the effective date of this charter shall continue in office unless they resign or until their terms of office shall expire, at which time new members shall be appointed in accordance with this charter.

(b) The public works board of appeals and the board of appeals under the planning department shall stand abolished and their functions transferred to the extent provided in section [6-10.2]. (Ed. note: Section 5-6.3 has been renumbered section 6-10.2 pursuant to 2000 Charter Amend. 2)

(c) Each county civil service employee affected by the status of agencies and transfer of functions under this charter shall be assigned to other agencies or executive agencies in the county without any loss in pay, provided the employee had held the position for at least one year prior to the full effective date of this charter. When an employee's position which has been so affected becomes vacant, that position shall stand abolished unless the position is permanently created in the table or organization of the agency or executive agency concerned.

(d) Nothing in this charter shall be deemed to affect the civil service status of incumbent department heads or deputies in government service prior to the adoption of this charter, and they shall continue to exercise and discharge the powers and duties of their respective offices until such time as the offices become vacant and successors shall have qualified in accordance with this charter or laws and ordinances enacted pursuant thereto.

(e) Every non-civil service officer, deputy, assistant or bureau head affected by the status of agencies and transfer of functions under this charter may be absorbed into a permanent civil service position in the same division or other agencies or executive agencies as a consequence of the reorganization provisions of this charter without loss of vacation or sick leave allowance, service credits or other rights and privileges and without the necessity of examination; provided, that such officer, deputy, assistant or bureau head possess the minimum qualifications for the position to which transferred or appointed. The method and procedure for such appointment or transfer shall be established by resolution or ordinance. The provision of this subsection relating to civil service status shall not apply to any officer, deputy, assistant or bureau head who is appointed as a deputy or assistant to the administrative head of any agency under this charter.

(f) Non-civil service employees or officers who are not transferred or appointed and whose employment are terminated as a consequence of the reorganization provisions of the charter shall have the right to have their names placed on appropriate re-employment lists and shall be deemed eligible for certification to positions in the class in which last occupied or in a related class in the same or lower grade for which the qualification requirements are met; provided, that written applications for re-employment with the department of civil service are filed within thirty (30) days after the termination of employment. Such certifications shall expire three (3) years after the effective date of this charter. (Amended Gen. Elec. 1980)

Section 16-5. Transfer of Records and Property. All records, property and equipment whatsoever of any office, department, board or commission, the functions of which are assigned to another agency by this charter shall be transferred and delivered to the agency to which such functions are so assigned. (Original section 16-5, "Temporary Budget and Capital Program," deleted Gen. Elec. 1980 and sections 16-6 through 16-11 were renumbered.)

Section 16-6. Status of Present Employees. No loss of vacation allowances, service credits or other rights and privileges on the part of any officer or employee in the civil service shall be caused by the adoption of this charter, but nothing contained herein shall be construed to prevent future changes in status pursuant to civil service laws. (Originally section 16-7, renumbered Gen. Elec. 1980)

Section 16-7. Department Heads Continued in Office. Notwithstanding any provision to the contrary, each department head (including elected department heads and department heads appointed by boards or commissions) holding office when this charter take full effect shall continue in office until a successor takes office or until removed pursuant to the provisions of this charter. (Originally section 16-8, renumbered Gen. Elec. 1980)

Section 16-8. Pending Proceedings. All petitions, hearings and other proceedings pending before any office, department, board or commission and not completed at the effective date of this charter shall continue and remain in full force and effect and shall be completed before or by the office, department, board or commission which succeeds to the powers and functions of such office, department, board or commission. (Originally section 16-9, renumbered Gen. Elec. 1980)

Section 16-9. Lawful Obligations of the County. All lawful obligations of the county existing on the effective date of this charter and all fines, taxes, penalties, forfeitures, obligations and rights due, owing or accruing to the county and all writs, prosecutions, actions and proceedings by or against the county shall remain unaffected by the adoption of this charter. (Originally section 16-10, renumbered Gen. Elec. 1980)

Section 16-10. Hawaii Redevelopment Agency. The Hawaii redevelopment agency shall be abolished, and its powers, functions, rules and regulations transferred to the planning director, on January 1, 2001. (Originally section 16-11, renumbered Gen. Elec. 1980, amended 2000 Charter Amend. 12)

Section 16-11. Transitional Provisions Concerning Fire Department. The amendment concerning the fire department shall take effect at noon on the first Monday in December following its approval by the voters. The fire chief serving immediately prior to the amendment taking effect shall hold over as interim fire chief until the appointment of a fire chief by the fire commission. If the fire chief's office becomes vacant before appointment of a fire chief by the fire commission, the mayor shall appoint an interim fire chief, who shall serve until the appointment of a fire chief by the fire commission. (Added 2000 Charter Amend. 3)

Section 16-12. Boards and Commissions with District Residency Requirements. Any commission member serving at the time of the adoption of the council district residency requirement in the year 2000 may serve the remainder of the term, regardless of residency. Any vacancy must be filled by a resident of a council district not represented on the commission. (Original section 16-12, "Salaries," deleted Gen. Elec. 1980. This section added Gen. Elec. 2000, Charter Amend. 9, 10 and 14)